

Commission a report setting forth in detail the manner and form in which it has complied and is complying with Paragraphs III and VII of this order.

IX.

It is further ordered, That PepsiCo shall notify the Commission at least thirty (30) days prior to any proposed change in its corporate structure, 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 this order.

IN THE MATTER OF
BATON ROUGE ATHLETIC CLUB AND HEALTH SPA, INC., ET
AL.

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

Docket C-2487. Complaint, Jan. 28, 1974—Decision, Jan. 28, 1974

Consent order requiring two Baton Rouge, La., health spas to warn clearly that any body wrapping device or treatment offered by them may be dangerous to health, and that prospective users should seek a physician's advice before using any such wrap.

Appearances

For the Commission: *Thomas J. Daquila.*

For the respondents: *William H. Cooper, Baton Rouge, La.*

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 Baton Rouge Athletic Club and Health Spa, Inc. (formerly Baton Rouge Health Club Management, Inc.), and Baton Rouge Health Club Management, Inc., Number Two, corporations, and Guy M. Bellelo and Raymond K. Roy, individually and as officers of the said corporations, hereinafter referred to as respondents, have violated the provisions of the said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Baton Rouge Athletic Club and Health Spa, Inc. (formerly Baton Rouge Health Club Management, Inc.) is a corporation organized and engaged in business under and by virtue of

the laws of the State of Louisiana with its office and principal place of business located at 4109 Choctaw Road, in the city of Baton Rouge, State of Louisiana and respondent Baton Rouge Health Club Management, Inc., Number Two, is a corporation organized and engaged in the business under and by virtue of the laws of the State of Louisiana with its office and principal place of business located at 4820 Government Street, in the city of Baton Rouge, State of La.

Respondent Guy M. Bellelo is the president of Baton Rouge Athletic Club and Health Spa, Inc. (formerly Baton Rouge Health Club Management, Inc.) He formulates, directs and controls the policies, acts and practices of said corporation, including the acts and practices hereinafter set forth. His address is the same as that of the said corporation.

Respondent Raymond K. Roy is the president of Baton Rouge Health Club Management, Inc., Number Two. He formulates, directs and controls the policies, acts and practices of said corporation, including the acts and practices hereinafter set forth. His address is the same as that of the said corporation.

PAR. 2. Respondents are now, and for some time last past, have been engaged in the advertising, offering for sale and sale to the public of health spa memberships, and related services and products including a certain device and treatment called the "Shapely Wrap," which is designed to reduce body measurements. The respondents' "shapely wrap" device and treatment entails the application of a body wrap material soaked in a solution around an individual's body.

PAR. 3. In the course and conduct of their said business, respondents have disseminated, and caused the dissemination of, certain advertisements concerning their said "shapely wrap" device and treatment, by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including, but not limited to, advertisements inserted in newspapers of interstate circulation, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said "shapely wrap" device and treatment; and have disseminated, and caused the dissemination of advertisements concerning said "shapely wrap" device and treatment 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 "shapely wrap" device and treatment in commerce as "commerce" is defined in the Federal Trade Commission Act; and, at all times mentioned herein have maintained a substantial course of trade in commerce, as "commerce" is used in Sections 5 and 12 of the Federal Trade Commission Act.

PAR. 4. The respondents' "shapely wrap" device and treatment may

cause injury to individuals with diabetes, varicose veins, phlebitis, or other circulatory problems.

PAR. 5. The respondents do not obtain the services of medical doctors to examine their members or customers prior to the application of the "shapely wrap" device and treatment to such members or customers.

PAR. 6. The respondents' said advertisements have not contained any warnings as to the aforementioned possibilities of personal injury. Thus, the advertisements tend to lead to an assumption by the public that the "shapely wrap" device and treatment are safe.

PAR. 7. The respondents have not given any oral or other warnings of the aforementioned possibility of personal injury prior to the application of the "shapely wrap" device and treatment to individuals. Thus, the absence of such warnings tends to lead to an assumption by such individuals that the "shapely wrap" device and treatment are safe.

PAR. 8. The respondents' failure to disclose the material facts of the aforesaid possibilities of personal injury involved in the use of the "shapely wrap" device and treatment constituted and now constitutes false, misleading and deceptive advertisement and has had and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said advertisements are true and complete, and into the purchase of health spa memberships, and related services and products by reason of said erroneous and mistaken belief.

PAR. 9. In the course and conduct of their aforesaid business, and at all times mentioned herein, respondents have been, and are now, in substantial competition in commerce with corporations, firms, and individuals who sell health spa memberships, and related services and products of the same general kind and nature as those sold by respondents.

PAR. 10. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors, and constituted, and now constitute, unfair methods of competition, and 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 respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the New Orleans Office proposed to present to the Commission for its consideration and which, if issued by

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the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

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

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in 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 Baton Rouge Athletic Club and Health Spa, Inc. (formerly Baton Rouge Health Club Management, Inc.) is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its principal office and only place of business located at 4109 Choctaw Road, Baton Rouge, La., and respondent Baton Rouge Health Club Management, Inc., Number Two is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its principal office and only place of business located at 4820 Government Street, Baton Rouge, La.

Respondent Guy M. Bellelo is the president of Baton Rouge Athletic Club and Health Spa, Inc. (formerly Baton Rouge Health Club Management, Inc.) He formulates, directs and controls the acts and practices of said corporation, including the acts and practices hereinafter set forth. His address is the same as that of said corporation.

Respondent Raymond K. Roy is the president of Baton Rouge Health Club Management, Inc., Number Two. He formulates, directs and controls the acts and practices of said corporation, including the acts and practices hereinafter set forth. 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 Baton Rouge Athletic Club and Health Spa, Inc. (formerly Baton Rouge Health Club Management, Inc.) and Baton Rouge Health Club Management, Inc., Number Two, corporations, and Guy M. Bellelo and Raymond K. Roy, individually and as officers of said corporations, their successors and assigns, and respondents' officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device in connection with the advertising, offering for sale, sale or distribution of health spa memberships, related services or products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Advertising, offering for sale, or selling, any body wrapping device, procedure, method, treatment or service unless each advertisement and sales presentation clearly and conspicuously includes the following warning:

WARNING—Body wrapping may be dangerous to your health. You should seek the advice of your physician before using any such wrap. If dizziness, swelling, skin irritation or other symptom occurs, use should be discontinued immediately.

Said "Warning" shall be oral in cases of oral presentations and in writing in cases of written presentations.

In advertisements in newspapers or other periodicals, said "Warning" shall be printed in at least eleven point type.

2. Failing to conspicuously disclose the "Warning" stated above in Subsection 1 to each prospective user of any body wrapping device, procedure, method, treatment or service, reasonably prior to such persons entering into an agreement for the purchase and/or use of such device, procedure, method, treatment or service by:

- (a) Delivering to each such person a card 5 inches by 8 inches on which is printed said "Warning" and nothing else with the captioned word "WARNING" printed in 18 point bold face type and the other language of said "Warning" in 11 point type.

- (b) Posting in a prominent place at all locations where offers of sale, sales or uses of said body wrapping device, procedure, method, treatment or service take place, a sign on which is printed said "Warning" and nothing else, with the captioned word "WARNING" printed in letters 2 inches high and with the other language in letters one inch high.

3. Failing to obtain from each prospective user of any body wrapping device, procedure, method, treatment or service a signed

and dated statement receipting for the "Warning" card delivered pursuant to Subsection 2(a) above.

4. Failing to maintain for a period of two (2) years said signed and dated receipts and other adequate records from which respondents' compliance with the requirements of this order can be ascertained, and to permit the inspection and copying thereof by Commission representatives.

5. Failing to deliver a copy of this order to cease and desist to all persons now engaged, or who become engaged, in the advertising or sale of respondents' health spa memberships, services or products, and failing to secure from each said 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 respondents, 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 each individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

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.

IN THE MATTER OF

SHERWOOD SWAN AND COMPANY TRADING AS SWAN'S, ETC.,
ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATIONS
OF THE TRUTH IN LENDING AND THE FEDERAL TRADE COMMIS-
SION ACTS

Docket C-2488. Complaint, Jan. 28, 1974—Decision, Jan. 28, 1974

Consent order requiring an Oakland, Calif., company, doing business as a department store, and as a finance company, among other things to cease violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act.

Appearances

For the Commission: *Harold G. Sodergren.*

For the respondents: *Robert Wahrhaftig, Oakland, Calif.*

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 Sherwood Swan and Company, a corporation doing business as Swan's, and Sherwood Swan Co., a corporation, and Edward G. Morin, individually and as an officer of said corporations, and Sherley Swan Ketsdever, individually and as an officer of Sherwood Swan Co., 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 Sherwood Swan and Company is a corporation organized, existing, and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 933 Washington Street, Oakland, Calif.

Respondent Sherwood Swan Co., a wholly-owned subsidiary of respondent Sherwood Swan and Company, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 933 Washington Street, Oakland, Calif.

Respondent Edward G. Morin is an officer of the named corporate respondents, and Sherley Swan Ketsdever is an officer of Sherwood Swan Co. They formulate, direct and control the acts and practices of the corporate respondents including the acts and practices hereinafter set forth. Their addresses are the same as that of the corporate respondents.

PAR. 2. Respondent Sherwood Swan and Company doing business as Swan's, is now, and for some time last past has been engaged in the operation of a department store and in the advertising, offering for sale, sale and distribution of various articles of merchandise to the public at retail.

Respondent Sherwood Swan Co. is now, and for some time last past has been, engaged, as a finance company, in offering to customers applying for credit, coupon books in denominations from \$15 to \$300, the coupons in which are exchangeable for merchandise at the department store of respondent Sherwood Swan and Company. Respondent sells these coupon books on an other than open-end credit basis by means of a

retail installment credit coupon book contract, hereinafter referred to as the coupon book contract. Customers who sign a coupon book contract receive a coupon book and are obligated to pay to respondent, in equal monthly installments, the cash price of the coupon book, plus the finance charges computed in accordance with the provisions of the California Small Loan Law.

PAR. 3. In the ordinary course and conduct of their business as aforesaid, respondents regularly extend, and for some time last past have regularly extended, consumer credit as "consumer credit" is 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, respondents, in the ordinary course of business as aforesaid, and in connection with their credit sales, as "credit sale" is defined in Regulation Z, have caused and are causing customers to execute the coupon book contract. Respondents do not provide these customers with any other consumer credit cost disclosures.

By and through the use of the coupon book contract, respondents:

1. Fail to use the term "amount financed" to describe the amount of credit extended, as required by Section 226.8(c) (7) of Regulation Z.

2. Fail to disclose the sum of all charges required by Section 226.4 of Regulation Z to be included in the finance charge, and to describe that sum as the "finance charge," as required by Section 226.8(c) (8) (i) of Regulation Z.

3. Fail to disclose the sum of the payments scheduled to repay the indebtedness, and to describe the sum as the "total of payments," as required by Section 226.8 (b) (3) of Regulation Z.

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

PAR. 5. Pursuant to Section 103(q) 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.

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 San Francisco Regional Office 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 regulations promulgated under the Truth in Lending Act; and

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

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in 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 Sherwood Swan and Company is a corporation organized, existing, and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 933 Washington Street, Oakland, Calif.

Respondent Sherwood Swan Co., a wholly-owned subsidiary of respondent Sherwood Swan and Company, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at the above stated address.

Respondent Edward G. Morin is an officer of both said corporations, and Sherley Swan Ketsdever is an officer of Sherwood Swan Co. They formulate, direct and control the acts and practices of the said corporations and their address is the same as that of the said corporations.

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 Sherwood Swan and Company, a

corporation; Sherwood Swan Co., a corporation; their successors and assigns, and their officers, and Edward G. Morin, individually and as an officer of said corporations, and Sherley Swan Ketsdever, individually and as an officer of said Sherwood Swan Co., and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device (hereinafter, in this and other paragraphs of this order, referred to as "respondents"), in connection with any extension or arrangement of consumer credit or advertisement to aid, promote, or assist directly or indirectly any arrangement or extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 C.F.R. § 226) of the Truth in Lending Act (Pub. L. 90-321, 15 U.S.C. 1601 *et seq.*), do forthwith cease and desist from:

1. Failing to use the term "amount financed" to describe the amount of credit extended, as required by Section 226.8(c) (7) of Regulation Z.

2. Failing to disclose the sum of all charges required by Section 226.4 of Regulation Z to be included in the finance charge, and to describe that sum as the "finance charge," as required by Section 226.8(c) (8) (i) of Regulation Z.

3. Failing to disclose the sum of the payments scheduled to repay the indebtedness, and to describe the sum as the "total of payments," as required by Section 226.8(b) (3) of Regulation Z.

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

5. Failing in any consumer credit transaction or advertisement to make all disclosures determined in accordance with Sections 226.4 and 226.5 of Regulation Z, at the time and in the manner, form, and amount required by Sections 226.6, 226.8 and 226.10 of Regulation Z.

It is further ordered, That respondents deliver a copy of this order to cease and desist to each operating division and to all present and future personnel of respondents engaged in the consummation of any extension of consumer credit, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in either of the corporate respondents, such as dissolution, assignment, or sales, 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 individual respondents named herein

promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business address and a statement as to the nature of the business or employment in which they are engaged as well as a description of their duties and responsibilities.

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

IN THE MATTER OF

GIMBEL BROTHERS, INC.

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

Docket 8885. Complaint, May 8, 1972—Decision, Jan. 30, 1974

Consent order requiring a leading department store headquartered in New York City, among other things to cease entering into or enforcing agreements, including lease agreements, enabling it to control the identity, size or location of other retailers in shopping centers.

Appearances

For the Commission: *Barbara B. Wiggs, Anthony Joseph, David Wilson, Kenneth Ross.*

For the respondent: *Solinger & Gordon, New York, N.Y.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act (15 U.S.C. Section 41, *et seq.*) and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the corporation named as respondent in the caption hereof, and more particularly designated and described hereinafter, has violated and is now violating the provisions of Section 5 of the Federal Trade Commission Act as amended, and it appearing to the Commission that a proceeding by it in respect thereof is in the public interest, hereby issues its complaint, stating the following:

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

(a) The term "regional shopping center" means a planned development of retail outlets serving the general public, in an approximately defined trading area and containing one or more major tenants.

(b) The term "major tenant" means a full-line department store,

providing primary drawing power for a regional shopping center.

(c) The term "satellite tenants" means any commercial occupant of a shopping center not a major tenant.

(d) The term "trading area" means the geographic bounds within which tenants of a regional shopping center derive the predominance of their customers.

PAR. 2. Respondent Gimbel Brothers, Inc. [hereinafter referred to as Gimbels] is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and place of business located at 33rd Street & Broadway, New York, N.Y. Gimbels and its wholly-owned subsidiary, Saks Fifth Avenue [hereinafter referred to as Saks], are engaged in the operation of chain retail stores, including full-line department stores and high-style women's specialty stores.

In fiscal 1970, Gimbels was one of the nation's leading department store concerns with sales in excess of \$715 million and 30 stores, approximately 13 of which are located in regional shopping centers throughout the nation. Its wholly-owned subsidiary Saks, has about 29 stores in the United States, some of which are also in regional shopping centers. Sales in suburban stores represent a growing share of the company's total sales volume, accounting for 26.7 percent of total sales in 1960, 44.8 percent in 1969 and 46.7 percent in 1970.

PAR. 3. In the course and conduct of its business, respondent has engaged and is now engaged in commerce, as "commerce" is defined in the Federal Trade Commission Act. Respondent purchases for resale a great variety of consumer products from a large number of suppliers located throughout the United States. Respondent causes these products, when purchased by it, to be transported from the place of manufacture or purchase to its business establishments located in N.Y., N.J., Pa., Wis. and other states. Such products have been and are advertised and offered for sale by respondent in newspapers circulated among and between the several states of the nation.

PAR. 4. The movement of population, and particularly the higher income segment of the population, from the central city to the suburbs, has precipitated the growth of shopping centers in suburban areas. In 1960, there were approximately 4,500 shopping centers in the United States; their number now exceeds 13,000 and is projected to reach 21,000 by 1980. In 1970, retail sales in shopping centers amounted to \$118 billion and accounted for 33.2 percent of all United States retail sales. Retail sales in shopping centers are projected to reach \$200 billion by 1980.

Regional shopping centers are the most economically significant type of shopping center. They reproduce to a substantial extent the retail

facilities once available only in downtown business districts, and are displacing and replacing the central, downtown business district as primary outlets for retail distribution of goods and services. Full-line department store operators, including respondent herein, have recognized the potential business opportunities presented by the expanding suburban markets and have, in recent years, taken steps to establish themselves in regional shopping centers.

PAR. 5. Except to the extent that competition has been hindered, frustrated and eliminated as set forth in this complaint, corporate respondent, in the course and conduct of its business of offering for sale and selling household goods, home furnishings, apparels and services, has been and is in substantial competition with other corporations, individuals and partnerships in the retail sale of the same or comparable brands of merchandise carried and sold by respondent.

PAR. 6. In recent years, Gimbels has entered into approximately twenty-four lease agreements for the establishment of full-line department stores and high-style specialty shops with shopping center developers. During the course of negotiating such lease agreements the developers have acceded to respondent's demands for certain types of restrictive covenants or provisions designed to protect it from certain types of competition. As of January 31, 1970, over twenty of respondent's lease agreements contain restrictive provisions. Such lease provisions, authorize Gimbels to control and determine the admission of those seeking to occupy space in the following shopping centers: North Hills Shopping Center, Ross Township, Pa.; Eastland Shopping Center, Versailles Township, Pa.; South Hills Shopping Center, Upper St. Clair, Pa.; Monroeville Shopping Center, Monroeville, Pa.; Southgate Shopping Center, Milwaukee, Wis.; Mayfair Shopping Center, Milwaukee, Wis.; Cross County Shopping Center, Yonkers, N. Y.; Moorestown Center, Moorestown, N. J.; Green Acre Shopping Center, Valley Stream, N. Y., and other shopping centers located in various parts of the United States. The restrictive provisions further control conditions affecting tenants in the aforesaid shopping centers.

PAR. 7. In the course and conduct of its business, Gimbels is and has been engaged in unfair methods of competition and unfair acts or practices in commerce, in that it has caused the inclusion and enforcement of lease provisions which suppress, restrict, restrain, hinder, lessen, prevent and foreclose competition in the retail distribution of goods and services in, among others, the following metropolitan trading areas: Pittsburgh, Pa.; Philadelphia, Pa.; Milwaukee, Wis.; and Long Island, N. Y. Said lease provisions include the following:

- (a) The right to disapprove other tenant leases;
- (b) The right to limit the floor space available to other tenants;

(c) The power to exercise continuing control over the conduct of the satellite tenants' business operations.

PAR. 8. The aforesaid lease provisions, the rights, powers and privileges thereby conferred on respondent as a major tenant of the aforesaid shopping centers, and its exercise and enforcement thereof, have had and continue to have the tendency to restrain trade and commerce in the retail trading areas served by those shopping centers, and represent a course of dealing by respondent designed to eliminate, discourage and hinder discount sales, discount pricing and the establishment of discount outlets in shopping centers. Included among such restraints are the following effects:

(a) Fixing, controlling and maintaining retail prices;

(b) Allowing the respondent to select its competitors and to exclude actual and potential competitors;

(c) Hindering and discouraging discount advertising, discount pricing, and discount selling;

(d) Restricting, hindering and coercing shopping center developers in their choice of potential tenants in shopping centers.

Said leases and lease provisions, respondent's acts, practices and methods of competition in connection therewith, and the adverse competitive effects resulting therefrom are to the injury of consumers and respondent's competitors, and constitute an unfair method of competition in commerce within the intent and meaning of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having issued a complaint which charges respondent Gimbel Brothers, Inc. with violating 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 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 accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, and after 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 2.34(b) of its rules, the Commission hereby makes the following jurisdictional findings and enters the following order:

1. Respondent Gimbel Brothers, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 33rd Street and Broadway, N. Y., N. Y.

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

I

For purposes of this order, the following definitions shall apply:

A. The term "respondent" refers to Gimbel Brothers, Inc., its operating divisions, its subsidiaries, and their respective officers, agents, representatives, employees, successors or assignees.

B. The term "shopping center" refers to a planned development of retail outlets which has a total floor area designed for retail occupancy of at least 200,000 sq. ft. excluding, however, such a development consisting of one major tenant and less than 50,000 sq. ft. designed for retail occupancy by tenants other than the major tenant.

C. The term "tenant" refers to any occupant or potential occupant of retail space in a shopping center, whether as lessee or owner of such space, but not as a developer of a shopping center.

D. The term "retailer" refers to a tenant which sells merchandise or services to the public.

E. The term "major tenant" refers to a tenant providing primary drawing power in a shopping center.

F. The term "respondent's pro rata share of lineal feet" refers to the number of lineal feet in a shopping center determined by dividing 50 percent of the total lineal feet of nonmajor tenant mall store frontage by the number of major tenants in the shopping center.

II

A. *It is ordered*, That respondent, in its capacity as a tenant in a shopping center, cease and desist from making, carrying out, or enforcing, directly or indirectly, an agreement or provision of any agreement which:

1. grants respondent the right to approve or disapprove the entry into a shopping center of any other retailer;

2. grants respondent the right to approve or disapprove the amount of floor space that any other retailer may lease or purchase in a shopping center;

3. prohibits the admission into a shopping center of any particular retailer or class of retailers, including, for purposes of illustration:

- (a) other department stores,
- (b) junior department stores,
- (c) discount stores, or
- (d) catalogue stores;

4. Limits the types of merchandise or brands of merchandise or service which any other retailer in a shopping center may offer for sale;

5. specifies that any other retailer in a shopping center shall or shall not sell its merchandise or services at any particular price or within any range of prices;

6. grants respondent the right to approve or disapprove the location in a shopping center of any other retailer;

7. specifies or prohibits any type of advertising by other retailers, other than advertising within a shopping center;

8. prohibits price advertising within a shopping center by retailers or controls advertising within a center by retailers in such a way as to make it difficult for customers to discern advertised prices from the common area of such shopping center; or

9. prevents expansion of a shopping center.

B. *It is further ordered*, That respondent, in its capacity as a tenant in a shopping center, shall not enter into or carry out any conspiracy, combination or arrangement with any other tenant to exclude any tenants from a shopping center or to grant respondent or another tenant any control over the admission of other tenants to the shopping center.

III

A. *It is further ordered*, That when respondent is the first major tenant to agree with a developer or landlord of a shopping center to become a tenant in such center, this order shall not prohibit respondent from terminating its agreement to become a tenant in such center if such developer or landlord does not obtain the agreement of one major tenant acceptable to respondent to operate a store in the center.

B. *It is further ordered*, That this order shall not prohibit respondent from negotiating to include, including, carrying out, or enforcing provisions in any agreement (a) with a developer or a landlord of a shopping center, or (b) if respondent shall be the owner of the building in which its store is located within a shopping center or land in a shopping center on which it intends to erect such a building, then with the owners of other buildings and land in such shopping center, which:

1. permit respondent to establish reasonable categories of retailers from which the developer or the landlord may select tenants to be located in the area immediately proximate to respondent's store; provided that such categories shall not include specification of (a)

price ranges, (b) price lines, (c) trade names, (d) store names, (e) trademarks, brands or lines of merchandise of retailers, or (f) identity of particular retailers, including the listing of particular retailers as examples of a category; and *Further, provided*, That such area shall not exceed 150 lineal feet of mall store frontage with respect to respondent's department stores and 200 lineal feet of mall store frontage with respect to respondent's Saks Fifth Avenue stores, immediately proximate to the mall frontage of respondent's store, on each level, *Provided*, That such area does not exceed respondent's pro rata share of lineal feet;

2. require the developer or the landlord to maintain reasonable standards of appearance, signs, maintenance and housekeeping of and in the shopping center;

3. prohibit occupancy of space in the shopping center by clearly objectionable types of tenants, including, for purposes of illustration, shops selling pornographic materials;

4. approve or grant to respondent the right to approve an initial layout of the shopping center, which layout may (a) designate respondent's store, (b) set forth the location, size and height of all buildings, (c) locate parking areas, roadways, utilities, entrances, exits, walkways, malls, landscaped areas and other common areas, and (d) establish a proposed layout for future expansion of the shopping center; and

5. require that any expansion of the shopping center not provide for in the initial layout:

(a) Shall not interfere with efficient automobile and pedestrian traffic flow into and out of the shopping center and between respondent's store and perimeter and access roads, parking areas, malls and other common areas of the shopping center;

(b) Shall not interfere with the efficient operation of respondent's store, including its utilities or its visibility from within the shopping center or from public highways adjacent thereto;

(c) Shall not result in a change of (i) the shopping center's parking ratio; (ii) the location of a number of parking spaces reasonably accessible to respondent's store determined by the application of such parking ratio to the number of square feet of floor area of respondent's store; (iii) the entrances and exits to and from respondent's store and any malls; and (iv) those parking area mall entrances and exits which substantially serve respondent's store;

(d) Shall be accomplished only after any and all covenants,

obligations and standards (for example, construction, architecture, operation, maintenance, repair, alteration, restoration, parking ratio, and easements) of the shopping center, exclusive of the expansion area (i) shall be made applicable to the expansion area and (ii) shall be made prior in right to any and all mortgages, deeds of trust, liens, encumbrances, and restrictions applicable to the expansion area, and (iii) shall be made prior in right to any and all other covenants, obligations and standards applicable to the expansion area.

IV

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

It is further ordered, That respondent shall:

(1) within thirty (30) days after service of this order upon respondent, notify each developer of shopping centers in which respondent occupies floor space, of this order by providing each such developer with a copy thereof by registered certified mail, and

(2) within sixty (60) days after the date of issuance of this order, file with the Commission a report showing the manner and form in which it has complied and is complying with each and every specific provision of this order.

V

It is further ordered, That respondent shall 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 this order.

IN THE MATTER OF

KOSCOT INTERPLANETARY, INC., ET AL.

Docket 8888. Interlocutory Order, Feb. 4, 1974

Order remanding to administrative law judge for disposition complaint counsel's request for *in camera* treatment of the testimony of certain witnesses, the Commission expressing the opinion that under the circumstances described in Section 3.45(b) of Rules of Practice authorizes the administrative law judge to order a closed hearing. Administrative law judge ordered to provide the Commission with a copy of the order disposing of aforesaid request.

Appearances

For the Commission: *Quentin McColgin* and *David Keehn*.

For the respondents: *Pro se*.

ORDER REMANDING MOTION FOR *In Camera* HEARINGS TO THE
ADMINISTRATIVE LAW JUDGE

By motion to the administrative, law judge, complaint counsel request (1) that testimony of certain witnesses be placed *in camera* pursuant to Section 3.45(b) of the Rules of Practice and (2) that the General Counsel be directed to seek modification of the order [of] the Florida District Court which order now forbids testimony by said witnesses in this matter. The administrative law judge concluded that the Florida District Court would be unlikely to modify its order unless such testimony was taken in a closed hearing. He interpreted Section 3.41(a) of the Rules of Practice as precluding him from ordering such a hearing and therefore, he certified to the Commission complaint counsel's request for *in camera* treatment along with the request that modification of the order be sought.

After due consideration of the nature of complaint counsel's motion and the meaning of Sections 3.41(a) and 3.45(b), the Commission concludes that Section 3.45(b) is a specific exception to the general rule requiring public hearings stated in Section 3.41(a); that under the circumstances described therein, Section 3.45(b) authorizes the administrative law judge to order a closed hearing; and that complaint counsel's second request was properly certified to the Commission, but cannot be disposed of until the administrative law judge rules on the first request; accordingly,

It is further ordered, That complaint counsel's request for *in camera* treatment of the testimony of certain witnesses be, and it hereby is, remanded to the administrative law judge for disposition consistent with the above;

It is further ordered, That the administrative law judge provide the Commission with a copy of the order disposing of the aforesaid request for *in camera* treatment.

IN THE MATTER OF

W. T. GRANT COMPANY

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

Docket 8931. Complaint, May 25, 1973—Decision, Feb. 8, 1974

Complaint

Consent order requiring a nationwide retail chain headquartered in New York City, among other things to cease using deceptive tactics to sell its coupon book credit plan; selling property insurance in a deceptive manner; and selling credit life and credit accident and health insurance in such a way as to violate the Truth in Lending Act.

Appearances

For the Commission: *William R. Herman and David G. Grimes, Jr.*

For the respondent: *Martin Connor, Edward Wolfe and Peter J. Dias of White & Case, New York, N.Y., Charles A. Doyle, New York, N.Y.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Truth in Lending Act and the implementing regulation promulgated thereunder, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that W. T. Grant Company, a corporation, hereinafter referred to as respondent, has violated the provisions of said Acts and the implementing regulation promulgated under the Truth in Lending Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent is 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 1515 Broadway, New York, N. Y.

PAR. 2. Respondent owns, operates and controls a chain of approximately one-thousand one-hundred sixty-eight (1168) retail stores, located in approximately forty-three (43) states of the United States. Respondent is now and has for some time in the past been engaged in the advertising, offering for sale, sale and distribution of various articles of merchandise and services to the public at retail and in the regular extension of consumer credit, as "consumer credit" is 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.

COUNT I

Alleging violation of Section 5 of the Federal Trade Commission Act, the allegations of Paragraphs One and Two hereof are incorporated by reference in Count I as if fully set forth verbatim.

PAR. 3. In the course and conduct of its aforesaid business, respondent formulates, directs and controls the acts and practices of its retail stores. Respondent causes advertising mats, memoranda, policy

directives, consumer credit contracts and other documents and communications to be transmitted by the United States mails and by other interstate mechanisms to and from respondent's principal office and place of business and its retail stores located in other states. Respondent sells and distributes merchandise and credit devices in commerce by causing them to be shipped to and from its warehouses and from the places of business of its various suppliers to its warehouses and retail stores for distribution to and purchase by the general public, located in states other than those from which such shipments originate. By these and other acts and practices, respondent maintains, and at all times mentioned herein has maintained, a substantial course of trade in merchandise and services in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the ordinary course and conduct of its business, respondent offers to consumers applying for credit coupon books in denominations from \$20 to \$200, the coupons in which are exchangeable for merchandise or services at any of respondent's retail stores. Respondent sells these coupon books on an other than open end credit basis by means of a retail installment credit coupon book contract, hereinafter referred to as the coupon book contract. Consumers who sign a coupon book contract receive a coupon book and are obligated to pay to respondent, in equal monthly installments, the cash price of the coupon book, plus charges for property, credit life, and credit accident and health insurance, if selected, plus the finance charge computed on the sum of such cash price and insurance charges. The due date of the first payment is thirty days after coupons from the book are first exchanged for merchandise or services.

PAR. 5. In the course and conduct of its business, respondent has engaged in acts and practices, of which the following are typical and illustrative, but not all inclusive, for the purpose of inducing applicants for credit to sign coupon book contracts:

1. In advertisements which it has published or caused to be published, respondent has invited consumers to open credit accounts. Typical and illustrative, but not all inclusive, of such advertisements are the following published in various media:

a. In newspapers of general circulation:

Select one of these gifts when you open a new account for \$176 or MORE or add the same amount to your existing credit account

ENJOY BETTER LIVING WITH GRANTS CREDIT

b. In leaflets distributed through the mails:

WIN \$200 in merchandise Fill in this combination of application for credit and for free drawing * * *

AND AT THE SAME TIME * * * OPEN YOUR CREDIT ACCOUNT (or add on to your open or inactive Grants Credit Account) * * *

c. In leaflets distributed by respondent's employees to customers at respondent's retail stores:

Dear Customer: We'd love to have you become a part of our growing Grant credit family. Why not apply today.

ENJOY BETTER LIVING WITH GRANTS CREDIT—Bring or mail in the application in this pamphlet. No postage is necessary. Always prompt service. Most applications can be approved in a matter of minutes. Credit can be used to purchase anything in the store.

2. Respondent's employees have asked customers in respondent's retail stores, "Do you have an account with us?" or questions of similar import. These employees have offered to take applications for credit from customers who have given negative replies to such questions.

3. When consumers have come to the credit department in respondent's retail stores and requested a credit account, respondent's employees have presented a coupon book contract to those applicants who qualify for credit and have not made any statements about the type of credit being offered before asking such applicants to sign the document.

4. Respondent's employees have given affirmative replies to consumers who have asked whether the coupon book account is an open end credit plan. Typical and illustrative of those replies, but not all inclusive thereof, are those which are suggested in the following instructions issued by respondent:

a. Suppose the customer answers:

IS THIS A 30 DAY CHARGE ACCOUNT?

How would you reply?

THIS CAN BE USED JUST LIKE A 30 DAY CHARGE ACCOUNT.

b. Suppose the customer answered:

IS THIS LIKE MY SEARS CHARGE PLATE?

How would you reply?

YES, WE HAVE AN ACCOUNT LIKE THAT MRS. JONES, BUT WE'RE OFFERING YOU OUR MOST POPULAR PLAN.

5. Respondent's employees have represented to consumers who qualify for respondent's open end credit plan, and have requested such credit, that respondent requires new customers to open a coupon book account before they can obtain an open end credit account.

PAR. 6. By and through the statements, representations, acts and practices set forth in Paragraph Five above and various others of similar import not set forth herein, respondent and its employees have represented, directly and by implication, that:

1. Consumers who apply for credit from respondent will be offered open end credit accounts.

2. The document presented to qualified applicants for credit for their

signatures is an agreement for the extension of open end credit.

3. The coupon books are devices issued pursuant to an agreement for the extension of open end credit.

4. A consumer is required to have had a coupon book account before he can obtain open end credit from respondent.

PAR. 7. In fact:

1. Consumers who apply for credit from respondent are not offered open end credit accounts but are offered coupon book accounts.

2. The document presented to qualified applicants for credit for their signatures, the coupon book contract, is an agreement for the extension of credit other than open end.

3. Coupon books are not treated in the coupon book contract as devices issued pursuant to an agreement for the extension of open end credit, but are treated as goods and are sold by means of a retail installment contract.

4. Consumers who qualify for open end credit from respondent are not required to have had a coupon book account before they can obtain open end credit from respondent.

Therefore, the acts, practices and representations set forth in Paragraphs Five and Six above are false, misleading and deceptive.

PAR. 8. In a substantial number of instances, respondent has charged consumers for property insurance written in connection with credit sales. Typical and illustrative, but not all inclusive, of the circumstances in which such charges were incurred is the following:

1. Prior to presenting the retail installment contract to the consumer, respondent's employees have included the charge for property insurance in the amount financed.

2. Without authority from the consumer, respondent's employees have placed a check next to the statement in the contract, "I wish Property" and have placed the date in the designated position in the "Insurance Agreement" in the contract.

3. Respondent's employees have presented the contract to the consumer and indicated to the consumer the two places where he is to sign the contract without explaining to the consumer that one of the signatures is being requested in order to execute an "Insurance Agreement."

PAR. 9. Since, in the circumstances stated in the preceding paragraph, a substantial number of consumers have signed the "Insurance Agreement" on respondent's retail installment contracts in the mistaken belief that their signatures were required in order to obtain consumer credit and without knowing that they were signing an "Insurance Agreement," the acts and practices set forth in Paragraph Eight above are false, misleading and deceptive.

PAR. 10. In the course and conduct of its business, and at all times

mentioned herein, respondent has been in substantial competition, in commerce, with corporations, firms and individuals in the sale of articles of merchandise and services of the same general kind and nature as those sold by respondent.

PAR. 11. Respondent's use of the aforesaid unfair and deceptive statements, representations and practices, and its failure to disclose material facts, as alleged above, has had, and now has, the capacity and tendency to mislead members of the public into the erroneous belief that those statements and representations were true and complete, and into the purchase or retention of, and payment for, substantial quantities of coupon books and property insurance written in connection with credit sales.

PAR. 12. The acts and practices of respondent alleged above were and are all to the prejudice and injury of the public and of respondent's competitors and 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.

COUNT II

Alleging violations of the Truth in Lending Act and the implementing regulation promulgated thereunder, and of the Federal Trade Commission Act, the allegations of Paragraphs One and Two above are incorporated by reference in Count II as if fully set forth verbatim.

PAR. 13. Subsequent to July 1, 1969, in the ordinary course and conduct of its business, and in connection with its credit sales, as "credit sale" is defined in Regulation Z, respondent, through its employees, has caused consumers to execute retail installment contracts.

PAR. 14. In a substantial number of instances, respondent has charged consumers for credit life and credit accident and health insurance written in connection with credit sales. Typical and illustrative, but not all inclusive, of the circumstances in which these insurance charges were incurred is the following:

1. Prior to presenting the retail installment contract to the consumer, respondent's employees have included the cost of credit life and accident and health insurance in the amount financed, as "amount financed" is defined in Regulation Z.

2. Without authority from the consumer, respondent's employees have placed a check next to the statement in the contract, "I wish Credit Life and Accident & Sickness" and have placed the date in the designated position in the "Insurance Agreement" in the contract.

3. Respondent's employees have then presented the contract to the consumer and have indicated to the consumer the two places where he is to sign the contract without explaining to the consumer that one of the

signatures is being requested in order to execute an "Insurance Agreement."

PAR. 15. In the circumstances set forth in the preceding paragraph:

1. a substantial number of consumers have signed the "Insurance Agreement" on respondent's retail installment contracts in the mistaken belief that their signatures were required in order to obtain consumer credit and without knowing that they were signing an "Insurance Agreement;" and

2. a substantial number of consumers have signed the "Insurance Agreement" on respondent's retail installment contracts in the mistaken belief that credit insurance was required by respondent.

Those consumers' signatures on the "Insurance Agreement" do not constitute the specific dated and separately signed affirmative written indication of the desire to obtain credit life and credit accident and health insurance coverage which is required by Section 226.4(a) (5) (ii) of Regulation Z if the cost of such insurance is not included in the finance charge. Therefore, respondent has:

1. failed to compute and disclose accurately the "finance charge" as required by Sections 226.4 and 226.8 of Regulation Z.

2. failed to compute and disclose the "annual percentage rate" accurately to the nearest quarter of one percent as required by Sections 226.5 and 226.8 of Regulation Z.

PAR. 16. Pursuant to Section 103(q) of the Truth in Lending Act, respondent's aforesaid failure to comply with Sections 226.4, 226.5 and 226.8 of Regulation Z constitute a violation of that Act and, pursuant to Section 108 thereof, respondent has thereby violated the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having issued a complaint charging that the respondent named in the caption hereof has violated the provisions of the Truth in Lending Act and of the Federal Trade Commission Act; and

The Commission having duly determined upon motion submitted by complaint counsel and respondent that, in the circumstances presented, the public interest would be served by a withdrawal of the matter from adjudication for the purpose of negotiating a settlement by the entry of a consent order; and

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

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

The Commission having considered the agreement and having provisionally accepted same, and the agreement containing consent order having thereupon been placed 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 procedures described in Section 2.34(b) of its rules, the Commission hereby makes the following jurisdictional findings, and enters the following order:

1. Respondent W. T. Grant Company 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 1515 Broadway, New York, N. Y.

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

I

It is ordered, That respondent W. T. Grant Company, a corporation, and respondent's agents, representatives, employees and successors and assigns, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of merchandise or services in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Misrepresenting, directly or by implication, that:

a. The coupon book contract is an agreement for the extension of open end credit;

b. Coupon books are devices issued pursuant to an agreement for the extension of open end credit; or

c. A consumer is required to have had a coupon book account before he can obtain open end credit from respondent; provided that nothing herein contained shall prevent any representation to a consumer who then qualifies only for a coupon book account that he may thereafter qualify for open end credit.

2. Filling in any portion of or presenting a coupon book contract to any consumer for his signature unless, in connection with each such contract, respondent:

a. Prior thereto has presented to the consumer the following statement, printed in a clear and conspicuous manner on one side of a single sheet of paper (the reverse side of which sheet

of paper may contain the coupon book contract) without any other language:

[In 16-point bold-face type]

NOTICE: The Federal Trade Commission requires that we provide this information *before* we can offer you a coupon book contract:

[In 12-point bold-face type]

W. T. Grant Company offers two *different* credit plans to qualified customers—an OPEN END CHARGE ACCOUNT and a COUPON BOOK PLAN. The Coupon Book Plan is NOT an open end or revolving credit plan. Some of the differences are:

1. THE KIND OF CREDIT—A CHARGE ACCOUNT is open end or revolving credit. The COUPON BOOK PLAN is installment credit. Once you use the first coupon, you would pay for the entire book in the same way you would pay for a small installment loan.

2. YOUR PAYMENTS—Under the COUPON BOOK PLAN, after you use your *first* coupon, you pay each month part of the *full* price of the coupon book, which includes *all* finance charges, whether you have exchanged all the coupons for specific merchandise or not. When you have a CHARGE ACCOUNT, you pay *only* for the merchandise you have actually purchased, plus finance charges if you don't pay the entire balance each month.

3. COMPUTING FINANCE CHARGES—Finance charges on a CHARGE ACCOUNT are computed on specific merchandise purchased up to that point in time. But COUPON BOOK PLAN finance charges are computed on the *total price* of the coupon book and *not* just on the coupons already exchanged.

4. HOW TO AVOID FINANCE CHARGES—You can avoid finance charges when you have a CHARGE ACCOUNT by paying the entire balance each month. You can only avoid finance charges on the COUPON BOOK PLAN by paying for the *entire* book within 30 days after you use the first coupon *or* by paying for the coupons used within 30 days after exchanging the first one and returning *all* unused coupons to Grant's. You may return coupons at any time and receive full credit for the unused portion.

[as applicable] YOU MAY CHOOSE EITHER GRANT'S OPEN END CHARGE ACCOUNT OR ITS COUPON BOOK

PLAN [or] AT THIS TIME, YOU ARE ONLY ELIGIBLE FOR THE COUPON BOOK PLAN.

[In 16-point bold-faced type] I received and read the above statement *before* any coupon book contract was filled in or presented to me to sign.

Signed _____ Date _____

b. Prior thereto has obtained an acknowledgment, signed and dated by the consumer, of his having received and read the aforesaid statement; and

c. Provides the consumer with a copy which he may retain of the aforesaid statement, printed in the manner set forth in Sub-paragraph (a) of this paragraph, which copy shall be on the reverse side of the coupon book contract.

3. Adding on the existing coupon book obligation of any consumer who had not previously been eligible for open end credit from respondent unless respondent has:

a. Obtained and scored a credit application from said consumer within the previous twelve months, which requirement can be fulfilled by updating and rescoring a credit application previously submitted to respondent by the consumer, and

b. Complied with the requirements of Paragraph Two hereof.

4. Offering or presenting to any consumer optional or voluntary property insurance written in connection with any credit sale unless respondent has:

a. Read and presented to the consumer the following statement, printed in a clear and conspicuous manner in 12-point bold-faced type on one side of a single sheet of paper which does not contain the credit agreement:

Property insurance is entirely optional. You are not required to buy it to get credit.

b. Obtained from the consumer, on the same document as the aforesaid statement, an acknowledgment, signed and dated by the consumer, of his having received and had read to him the aforesaid statement.

5. Checking the box next to the statement "I wish Property" on the retail installment contract, or otherwise making any mark, designation, or indication on any document in connection with any similar statement respecting the selection of voluntary or optional property insurance; *Provided*, That nothing herein contained shall prevent respondent from setting forth the cost of such insurance, as permitted by Section 226.4(a)(6) of Regulation Z (12 C.F.R. § 226) of the Truth in Lending Act (Pub.L. 90-321, 15 U.S.C. 1601, *et*

