IN THE MATTER OF

ACCURATE QUILTING COMPANY, INC., ET AL.

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

Docket 7139. Complaint, May 7, 1958—Decision, Nov. 7, 1958

Consent order requiring manufacturers in Hoboken, N.J., to cease violating the Wool Products Labeling Act by labeling interlining materials which contained substantially less reprocessed or reused wool than the percentage set out, as "70% Reprocessed Wool, 30% Man-made Fibers"; "80% Reused Wool, 20% Unknown Fibers"; "100% Reprocessed Wool," etc., and by failing to label other materials as required.

Thomas A. Ziebarth, Esq., for the Commission.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

The complaint in this proceeding, issued May 7, 1958, charges the respondents above named with violation of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, and of the Rules and Regulations promulgated under authority of the said Wool Products Labeling Act, in connection with the introduction or manufacture for introduction into commerce, sale, offering for sale, transportation and distribution, and delivery for shipment in commerce of interlinings or other wool products in commerce, as "commerce" is defined in said Acts.

After the issuance of said complaint respondents, on August 25, 1958, entered into an agreement for a consent order with counsel supporting the complaint, disposing of all of the issues in this proceeding, which agreement was duly approved by the director and assistant director of the Bureau of Litigation of the Federal Trade Commission. It was expressly provided in said agreement that the signing thereof is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

By the terms of said agreement, respondents admitted all of the jurisdictional allegations of the complaint and agreed that the record herein may be taken as though the Commission had made findings of jurisdictional facts in accordance with such allegations. By said agreement the parties expressly waived a hearing before the hearing examiner or the Commission, the making of findings of fact or conclusions of law by the hearing

examiner or the Commission, the filing of exceptions and oral argument before the Commission, and all further and other procedure before the hearing examiner and the Commission to which the respondents may otherwise be entitled under the Federal Trade Commission Act or the Rules of Practice of the Commission.

By said agreement, respondents further agreed that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as though made after a full hearing, presentation of evidence and findings and conclusions thereon, and specifically waived any and all right, power or privilege to challenge or contest the validity of such order.

It was further provided that said agreement, together with the complaint, shall constitute the entire record herein; that the complaint herein may be used in construing the terms of the order issued pursuant to said agreement; and that the said order may be altered, modified or set aside in the manner provided for other orders of the Commission.

Said agreement recites that respondent Accurate Quilting Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its offices and principal place of business located at 225 Adams Street, Hoboken, N.J. Individual respondents Joseph Teitelbaum and S. J. Tuttle are president and secretary-treasurer, respectively, of said corporate respondent and have the same address as the corporate respondent.

The hearing examiner has considered such agreement and the order therein contained, and, it appearing that said agreement and order provides for an appropriate disposition of this proceeding, the same is hereby accepted and, without further notice to respondents is ordered filed upon becoming part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the Rules of Practice, and in consonance with the terms of said agreement, the hearing examiner finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents named herein, and that this proceeding is in the interest of the public, wherefore he issues the following order:

ORDER

It is ordered, That respondents Accurate Quilting Company, Inc., a corporation, and its officers, and Joseph Teitelbaum and S. J. Tuttle, individually and as officers of said corporation, and

respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce, or the offering for sale, sale, transportation or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, of woolen battings or other wool products as such products are defined in, and subject to, said Wool Products Labeling Act, do forthwith cease and desist from:

A. Misbranding such products by:

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

(2) Failing to securely affix to, or place on, each such product a stamp, tag or label or other means of identification showing in a clear and conspicuous manner:

(a) The percentage of the total fiber weight of such wool product exclusive of ornamentation not exceeding five percentum of said total fiber weight of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where the percentage by weight of such fiber is five percentum or more, and (5) the aggregate of all other fibers.

(b) The maximum percentage of the total weight of such wool product of any nonfibrous loading, filling or adulterating matter, and;

(c) The name or the registered identification number of the manufacturer of such wool product or one or more persons engaged in introducing such wool product into commerce or in the offering for sale, sale, transportation, distribution or delivery for shipment thereof in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939.

It is further ordered, That Accurate Quilting Company, Inc., a corporation, and its officers, and Joseph Teitelbaum and S. J. Tuttle, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of woolen interlining materials or other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting the character or amount of the constituent fibers contained in such products on invoices or shipping memoranda applicable thereto or in any other manner.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 7th day of November, 1958, become the decision of the Commission; and, accordingly:

It is 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 the order to cease and desist.

Decision

IN THE MATTER OF

ALLEGHANY PHARMACAL CORP. ET AL.

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

Docket 7176. Complaint, June 27, 1958—Decision, Nov. 7, 1958

Consent order requiring distributors in New York City to cease representing falsely in newspaper advertisements and otherwise that their reducing drug preparation designated "Hungrex with P.P.A." was safe for use by all obese persons, and that such persons could expect to lose weight at the rate of five pounds a week.

Mr. Morton Nesmith and *Mr. Berryman Davis* for the Commission.

Mr. Milton A. Bass of *Bass & Friend,* of New York, N.Y., for respondents.

INITIAL DECISION BY EVERETT F. HAYCRAFT, HEARING EXAMINER

On June 27, 1958, the Federal Trade Commission issued its complaint against the above-named respondents charging them with the use of an unfair and deceptive act and practice in commerce in violation of the provisions of the Federal Trade Commission Act in the dissemination of false advertisements of a drug preparation designated "Hungrex with P.P.A." In lieu of submitting answer to said complaint, the respondents entered into an agreement for consent order with counsel supporting the complaint disposing of all the issues in this proceeding in accordance with Section 3.25 of the Rules of Practice and Procedure of the Commission, which agreement has been duly approved by the Bureau of Litigation. It was recommended in the agreement that the complaint be dismissed as to Harry Evans and Vincent J. Lynch as officers of Alleghany Pharmacal Corp., the respondent corporation, as they had resigned as such officers before the issuance of the complaint. In support of said recommendation, an affidavit by these individual respondents was attached to the agreement and by reference made a part thereof.

The reference to "respondents" herein is only to Alleghany Pharmacal Corp., a corporation, and Harry Evans and Vincent J. Lynch, individually.

By the terms of said agreement, the respondents admitted all the jurisdictional facts alleged in the complaint and agreed that

the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. Respondents in the agreement expressly waived any further procedural steps before the hearing examiner and the Commission; the making of findings of fact or conclusions of law; and all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement.

It was further provided in said agreement that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the said agreement. It was further agreed that the agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission, and that said agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint. The agreement also provided that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as if entered after a full hearing; that it may be altered, modified or set aside in the manner provided for other orders; and that the complaint may be used in construing the terms of the order.

This proceeding having now come on for final consideration by the hearing examiner on the complaint and the aforesaid agreement for consent order, and it appearing that said agreement provides for an appropriate disposition of this proceeding, the aforesaid agreement is hereby accepted and is ordered filed upon becoming part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the Rules of Practice; and in consonance with the terms of said agreement, the hearing examiner makes the following jurisdictional findings and order:

1. Respondent Alleghany Pharmacal Corp. is a corporation 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 16 West 61st Street, New York, N.Y. The address of the individual respondents is the same as that of the corporate respondent.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents hereinabove named. The complaint states a cause of action against said respondents under the Federal Trade Commission Act and this proceeding is in the interest of the public.

ORDER

It is ordered, That respondents, Alleghany Pahrmacal Corp., a corporation, and its officers, and Harry Evans and Vincent J. Lynch, individually, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of the preparation "Hungrex with P.P.A.", or any other preparation of substantially similar composition or possessing substantially similar properties, whether sold under the same name or any other name, do forthwith cease and desist from, directly or indirectly:

1. Disseminating or causing to be disseminated 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 advertisement represents, directly or indirectly:

(a) That said preparation is safe to use by all obese persons;

(b) That any predetermined weight reduction can be achieved by the taking or use of said preparation for a prescribed period of time.

2. Disseminating or causing the dissemination of any advertisement by any means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said preparation, which advertisement contains any of the representations prohibited in paragraph 1 hereof.

It is further ordered, That the complaint be, and the same hereby is, dismissed as to Harry Evans and Vincent J. Lynch as officers of Alleghany Pharmacal Corp., a corporation.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 7th day of November 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Alleghany Pharmacal Corp., a corporation, and Harry Evans and Vincent J. Lynch, individually, 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.

IN THE MATTER OF

NEAPCO PRODUCTS, INC.

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

Docket 6891. Complaint, Sept. 17, 1957—Decision, Nov. 8, 1958

Consent order requiring a manufacturer of automotive products and supplies in Pottstown, Pa., to cease charging small independent wholesalers higher prices than it charged their heavier-buying independent competitors by means of its 2 percent to 10 percent rebate schedule based on total purchases, and by granting to group wholesalers rebates equal to 15 percent of net prices on aggregate purchases of the group while holding the independents to the 2 percent to 10 percent schedule.

COMPLAINT

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

PARAGRAPH 1. Respondent Neapco Products, Inc., is a corporation organized 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 Cross and South Streets, Pottstown, Pa.

PAR. 2. Respondent is now, and for several years has been, engaged in the business of the manufacture, sale and distribution of automotive products and supplies including universal joints and components, power takeoff universal joints and chassis parts. Respondent's total sales in 1956 exceeded $2,200,000.00.

Said products and supplies are sold by the respondent for use, consumption or resale within the United States and the District of Columbia, and respondent causes said products and supplies to be shipped and transported from the State of location of its principal place of business to approximately 3000 purchasers thereof located in States other than the State wherein said shipment or transportation originated.

Respondent maintains, and at all times mentioned herein has maintained, a course of trade and commerce in said products

and supplies among and between the States of the United States and in the District of Columbia.

PAR. 3. Respondent, in the course and conduct of its business, has been and is now engaged in active and substantial competition with other sellers in manufacturing, selling, and distributing comparable automotive products and supplies in commerce. Many of the purchasers from the said sellers and many of the purchasers from the respondent are competitively engaged each with the other.

Among respondent's approximately 3000 customers are many who are members of organizations commonly known as buying groups and are sometimes known as group wholesalers. Other customers of respondent are known as independent wholesalers. Such group wholesalers and independent wholesalers are frequently located in the same trade area and compete each with the other in the resale of said automotive products and supplies.

PAR. 4. Respondent, in the course and conduct of its business, has been and is now discriminating in price between different purchasers of its automotive products and supplies of like grade and quality by selling to some independent wholesalers at higher and less favorable prices than it sells to other independent wholesalers, or to wholesaler-members of buying groups, some of which are competitively engaged with the others in the resale of said products.

Prior to January 1955, respondent granted to all wholesalers a rebate on total purchases, equal to from 2% to 10% of net purchase price, relating only to the volume of merchandise purchased. Thus, some independent wholesalers purchasing less volume were charged higher and less favorable net prices than other independent wholesalers purchasing in great volume. Further, wholesaler-members of groups were permitted to aggregate purchases of the total group membership to obtain a higher percentage of rebate than was allowed individual independent wholesalers purchasing similar volumes.

From about January 1955 and continuing to the present time, respondent granted to group wholesalers rebates equal to 15% of net prices on all purchases. At the same time, respondent maintained the schedule of rebates to independent wholesalers equal to from 2% to 10% of net purchase price according to the volume of merchandise purchased.

PAR. 5. The effect of respondent's aforesaid discriminations in price may be substantially to lessen, injure, destroy or prevent

competition between and among respondent's independent wholesalers and between and among respondent's independent and group-member wholesalers, or with customers of either of them.

PAR. 6. The aforesaid acts and practices of respondent constitute violations of the provisions of subsection (a) of section 2 of the Clayton Act, (U.S.C., Title 15, Sec. 13), as amended by the Robinson-Patman Act, approved June 19, 1936.

Mr. Francis C. Mayer and *Mr. Franklin A. Snyder* for the Commission.

Halfpenny & Hahn, of Chicago, Ill., for respondent.

INITIAL DECISION BY FRANK HIER, HEARING EXAMINER

Pursuant to the provisions of subsection (a) of section 2 of the Clayton Act (U.S.C., Title 15, Sec. 13) as amended by the Robinson-Patman Act, the Federal Trade Commission on September 17, 1957, issued and subsequently served its complaint in this proceeding against respondent Neapco Products, Inc., a corporation existing and doing business under and by virtue of the laws of the State of Delaware.

On September 22, 1958, there was submitted to the undersigned hearing examiner an agreement between respondent and counsel supporting the complaint providing for the entry of a consent order. By the terms of said agreement, respondent admits all the jurisdictional facts alleged in the complaint and agrees that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. By such agreement, respondent waives any further procedural steps before the hearing examiner and the Commission; waives the making of findings of fact and conclusions of law; and waives all of the rights it may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement.

Such agreement further provides that it disposes of all of this proceeding as to all parties; that the record on which this initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement; that the latter shall not become a part of the official record unless and until it becomes a part of the decision of the Commission; that the agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint; and that the following order to cease and desit

may be entered in this proceeding by the Commission without further notice to respondent, and, when so entered, it shall have the same force and effect as if entered after a full hearing, and may be altered, modified, or set aside in the manner provided for other orders; and that the complaint may be used in construing the terms of the order.

The hearing examiner having considered the agreement and proposed order, and being of the opinion that they provide an appropriate basis for settlement and disposition of this proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued.

Respondent Neapco Products, Inc. is a corporation organized 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 Cross and South Streets, Pottstown, Pa.

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

ORDER

It is ordered, That respondent Neapco Products, Inc., a corporation, and its officers, representatives, agents and employees, directly or through any corporate or other device, in or in connection with the sale, for replacement purposes, of automotive parts and supplies in commerce, as "commerce" is defined in the amended Clayton Act, do forthwith cease and desist from discriminating, directly or indirectly, in the price of such products and supplies of like grade and quality by selling to any one purchaser at net prices higher than the net prices charged to any other purchaser who, in fact, competes with the purchaser paying the higher price in the resale and distribution of respondent's products.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 8th day of November, 1958, become the decision of the Commission; and, accordingly:

It is 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 the order to cease and desist.

IN THE MATTER OF

NORTHWEST AIR COLLEGE, INC., ET AL.

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

Docket 7091. Complaint, Mar. 20, 1958—Decision, Nov. 11, 1958

Order requiring two associated corporate sellers in Spokane and Seattle, Wash., of correspondence and residence courses in "Specialized Airlines Training" purporting to prepare enrollees for employment in commercial airline positions, to cease using deceptive employment offers and other misrepresentations concerning their schools, opportunities for students, etc., in advertising in newspapers and periodicals and through commissioned sales agents who followed up leads to interested prospects.

A similar order was consented to by two individual respondents, officers of the schools, on Sept. 25, 1958, *supra*, p. 463.

Mr. Ames W. Williams and *Mr. John J. McNally* for the Commission

No appearance for respondents.

INITIAL DECISION AS TO CORPORATE RESPONDENTS AND INDIVIDUAL RESPONDENTS JAMES E. MURTHA AND EDWIN R. POSSENRIEDE BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) issued its complaint herein, charging the respondents named herein with having violated the provisions of the Federal Trade Commission Act in certain particulars.

Respondents, other than John W. McBride and Anna M. Searle as to whom other appropriate disposition of this case has heretofore been made, were each and all duly served with a copy of the complaint and all other jurisdictional and other processes of the Commission but have failed and neglected to answer the complaint. Upon due notice of the time and place of the initial hearing set for 10:00 a.m. (local time), on August 27, 1958, in Room 262, Federal Trade Commission Building, Sixth and Pennsylvania Avenue, NW., Washington, D.C., by order dated August 6, 1958, and served upon each of said respondents in accordance with the rules of the Commission, the said respondents and each of them also failed to appear at said hearing, and, upon motion of counsel supporting the complaint, the default of answer and of appearance of each was taken and entered of record herein, and

said respondents were and are in default in this proceeding under the Commission's Rules of Practice for Adjudicative Proceedings, particularly §3.7(b) thereof. The hearing examiner, therefore, without further notice to the respondents has found the facts to be as alleged in the complaint, and at said hearing was requested by counsel supporting the complaint to issue a form of order which is deemed to be appropriate, and this initial decision is, therefore, entered containing such findings and order.

The hearing examiner finds that the following facts as set forth in the complaint are true:

1. Respondents Northwest Air College, Inc., and American Air College and Training School, Inc., are Washington corporations with offices at 2225 Inland Empire Way, Spokane, and 3146 Eastlake Avenue, Seattle, Wash., respectively. Respondents James E. Murtha and Edwin R. Possenriede, alias E. R. Riede, are or were officers of the aforementioned corporations. The post office address of James E. Murtha is East 1002 Nora, Spokane, Wash., and of Edwin R. Possenriede, alias E. R. Riede, is 3146 Eastlake Avenue, Seattle, Wash.

In performing the acts and practices hereinafter charged, the said corporations, are, or were, under the management, control and direction of the above-named individual respondents.

2. The respondents, under the corporate names hereinabove mentioned, have engaged for sometime past in the sale and distribution of a course of study and instruction in so-called "Specialized Airlines Training" purporting to prepare enrollees for employment in commercial airline positions as stewards, station agents, hostesses, reservationists, ticket agents, telephone sales agents, teletype operators and ground radio officers which course of study and instruction is given and pursued through the medium of the United States mails in its entirety or in combination with a period of residence study in Spokane or Seattle, Wash.

Said respondent corporations, in the course and conduct of their business under the said corporate names and during the time aforesaid, have caused, and now cause, said course of study and instructions to be transported from their places of business in the State of Washington to purchasers thereof located in various other States and maintain and have maintained a course of trade in commerce, as "commerce" is defined in the Federal Trade Commission Act. Their volume of business in such commerce has been, and is, substantial.

3. In the course and conduct of their business as hereinbefore

described, Northwest Air College, Inc., American Air College and Training School, Inc., and their officers, the individual respondents hereinbefore named and each of them, have made, published and caused to be published certain statements in various printed periodicals and newspapers of which the following is typical:

AIRLINES NEED
MEN AND WOMEN

We need Reservationists, Station Agents, Passenger Agents, Stewards, Radio Operators, Hostesses, Communicationists for public contact positions. If you are 18 or over, a High School Graduate or equivalent and have a good personality, U. S. Citizen, don't miss this opportunity, Good salaries, rapid promotions, free travel passes, security. Preliminary training need not interfere with present employment.

4. By means of the statements appearing in said advertisement, respondents represented, directly or by implication, that the advertisement was an offer of employment for the positions set out therein.

5. Said statement and representation is false, misleading and deceptive. In truth and in fact, said advertisement is not an offer of employment for any of the positions listed.

6. Respondents employ commission sales agents, who call upon prospects whose interest has been aroused by reason of the aforesaid advertisement, and others of the same import, and endeavor to sell respondents' course of study. Respondents furnish such salesmen with various kinds of printed material for exhibition to such prospective customers and also mail printed material to prospective customers located in various States.

7. The hearing examiner finds that respondents, by their said advertising as well as by oral statements made by their sales agents, have made numerous false, misleading, and deceptive statements and representations concerning their so-called "Specialized Airlines Training" in the numerous particulars alleged in the complaint as follows:

a. That there are positions presently open in all of the categories set out in paragraph 3 hereof and that such positions will be available to those who complete respondents' course of instruction;

b. That persons who complete their course of instruction thereby become qualified for employment by 17 major airlines;

c. That thousands of persons have been employed by commercial airlines by virtue of completing their course of instruction;

d. That respondents provide a lifetime placement service to all graduates;

e. That commercial airlines employ men and women from age 17 to 39;

f. That Northwest Air College and American College and Training School, Inc., are recognized and accredited by the State of Washington;

g. That there is a great demand for graduates of the schools conducted by respondents;

h. That respondents' schools use a system of rigid selectivity in selling their courses of instruction;

i. That part time employment is obtained by respondents for students while attending their resident schools;

j. That class room space is limited in their resident schools and prompt enrollment is necessary in order to attend;

k. That scholarships are available for selected students;

l. That respondents' schools are adequately equipped to teach the specified courses;

m. That respondents' schools are connected with leading airlines;

n. That the starting salaries for their graduates range between $275 to $300 a month;

o. That their schools are centrally located and near supervised living facilities;

p. That only two students are required to share a room in the living facilities;

q. That a swimming pool is provided for the use of students;

r. That fraternity and sorority houses are established at the schools.

8. The hearing examiner further finds that through the use of the word "college" in their corporate names, respondents Northwest Air College, Inc., and American Air College and Training School, Inc., have falsely and deceptively represented that their schools are institutions of higher learning, as the word "college" is usually understood in the educational field and by the general public.

9. The hearing examiner further finds that respondents employ sales agents which they designate as "registrars" to sell their course of instruction upon a commission basis, but that said salesmen are not registrars as that word is commonly accepted and understood, that is, professional persons who are affiliated or employed by educational institutions and who are

engaged in the evaluation of academic credentials, and the formal registration of qualified students.

10. Respondents, in the conduct of their business are in competition, in commerce, with corporations, firms and individuals in the sale of courses of instruction covering the same or similar subjects as are covered by respondents' courses.

11. The use by respondents of the aforesaid false, misleading, and deceptive statements and representations has had, and now has, the tendency and capacity to mislead a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements and representations of respondents are true; and into the purchase of a substantial number of said courses of instruction because of such erroneous and mistaken belief. As a result thereof trade in commerce has been unfairly diverted to respondents from their competitors and injury has thereby been done to competition in commerce.

CONCLUSIONS

There being jurisdiction of the persons of the respondents, upon the findings of fact hereinbefore made, the hearing examiner makes the following conclusions of law:

1. The acts and practices of the respondents hereinabove found to be false, misleading, and deceptive are all to the prejudice and injury of the public and constitute unfair and deceptive acts or practices and unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

2. The Federal Trade Commission has jurisdiction over all of the respondents' acts and practices which have been hereinabove found to be false, misleading, and deceptive.

3. The public interest in the proceeding is clear, specific, and substantial.

Upon the foregoing findings of fact and conclusions of law, the following order is hereby entered:

ORDER

It is ordered, That respondents Northwest Air College, Inc., a corporation; America Air College and Training School, Inc., a corporation; and James E. Murtha, and Edwin R. Possenriede, alias E. R. Riede, individually and as officers of the aforesaid corporations, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce,

as "commerce" is defined in the Federal Trade Commission Act, of courses of study or instruction, do forthwith cease and desist from:

1. Representing, directly or by implication:

(a) That employment is being offered when, in fact, the purpose is to obtain purchasers of such courses of study or instruction;

(b) That positions are open or will be available to those who complete such courses, unless such is the fact;

(c) That persons who complete such courses are thereby qualified for employment by commercial airlines;

(d) That thousands of persons have been employed by commercial airlines by virtue of completing such course; or otherwise misrepresenting the actual number of graduates who have been so employed;

(e) That respondents provide a placement service to the extent that any significant number of graduates of such courses are placed in positions with commercial airlines by respondents;

(f) That 17-year old persons are ordinarily employed by commercial airlines, or otherwise misrepresenting the ages at which persons are ordinarily so employed;

(g) That Northwest Air College, Inc., or Amercian Air College and Training School, Inc., are recognized or accredited by the State of Washington; or otherwise misrepresenting the accredited status of any firm or institution commercially engaged in the sale of courses of instruction;

(h) That there is a great demand for graduates of respondents' schools or courses, or otherwise misrepresenting the demand for such graduates;

(i) That such courses are sold only to selected persons;

(j) That part-time employment is obtained by respondents for resident students;

(k) That prompt enrollment in respondents' resident schools is necessary because of limited class room space; or for any other reason, that is not the fact;

(l) That scholarships are available for selected students;

(m) That respondents' schools are adequately equipped to teach the subjects covered by such courses of instruction;

(n) That respondents' schools are connected or associated with commercial airlines;

(o) That the starting salaries for the positions covered by such courses are from $275.00 to $300.00 a month, or otherwise misrepresenting the starting salary for any position so covered;

(p) That respondents' schools are centrally located or that the living facilities are supervised;

(q) That only two students are required to share a room in the living facilities, or otherwise misrepresenting the number of students that are required to share a room;

(r) That a swimming pool is provided for the use of students;

(s) That fraternity or sorority houses are established at the schools;

2. Using the word "college," or any other word of similar meaning either alone or in conjunction with other words as a part of the corporate name of either of the corporate respondents; or of any other firm or corporation commercially engaged in the sale of courses of instruction; or representing in any manner, directly or by implication, that either of the corporate respondents or any firm or corporation commercially engaged in the sale of courses of instruction, is a college or constitutes a school of higher learning;

3. Using the word "Registrar" in designating or referring to respondents' salesmen.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 11th day of November 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Northwest Air College, Inc., a corporation; American Air College and Training School, Inc., a corporation; and James E. Murtha, and Edwin R. Possenriede, alias E. R. Riede, individually and as officers of the aforesaid corporations, 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.

Order

IN THE MATTER OF

GIRARDIAN INSURANCE COMPANY, ET AL.

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

Docket 6281. Complaint, Dec. 28, 1954—Order, Nov. 12, 1958

Order dismissing on jurisdictional grounds, on the authority of the Supreme Court's per curiam opinion in the combined cases of *Federal Trade Commission* v. *National Casualty Company* and *Federal Trade Commission* v. *The American Hospital and Life Insurance Company*, 357 U.S. 560, complaint charging a Dallas, Tex., insurance company with falsely advertising the benefits of its accident and health insurance policies.

Before *Mr. J. Earl Cox*, hearing examiner.

Mr. Francis C. Mayer and *Mr. Eugene Kaplan* for the Commission.

Blakley & Walker, of Dallas, Tex., for respondents.

FINAL ORDER

This matter having come on to be heard upon the appeal of counsel supporting the complaint from the hearing examiner's initial decision dismissing the complaint upon the grounds of (1) lack of jurisdiction in the Commission; (2) failure of proof of the allegations of the complaint; and (3) discontinuance of the practices alleged to be unlawful; and

It appearing that said appeal was filed prior to the per curiam opinion of the Supreme Court in the combined cases of *Federal Trade Commission* v. *National Casualty Company* and *Federal Trade Commission* v. *The American Hospital and Life Insurance Company*, 357 U.S. 560 (decided June 30, 1958) ; and

The Commission having concluded that the proceeding should be dismissed solely on jurisdictional grounds on the authority of the aforesaid Supreme Court decision:

It is ordered, That the initial decision herein, filed January 20, 1956, be, and it hereby is, vacated and set aside.

It is further ordered, That the complaint herein be, and it hereby is, dismissed.

Commissioners Kern and Tait not participating.

IN THE MATTER OF

MITCHELL S. MOHR TRADING AS NATIONAL RESEARCH COMPANY, ET AL.

MODIFIED CEASE AND DESIST ORDER

Docket 6236. Order and Opinion, Nov. 14, 1958

Order modifying Commission's desist order of June 1, 1956, 52 F.T.C. 1466, to require that respondent collection agencies' questionnaires, etc., "clearly reveal that the purpose for which the information is requested is that of obtaining information concerning delinquent debtors."

Before *Mr. Abner E. Lipscomb*, hearing examiner.

Mr. Michael J. Vitale for the Commission.

Mr. Murray M. Chotiner, of Beverly Hills, Calif., for respondents.

ORDER REOPENING PROCEEDING AND MODIFYING ORDER TO CEASE AND DESIST

The Commission, after due notice and a full hearing, having determined that the public interest requires that this case be reopened and the order to cease and desist heretofore entered herein modified in the manner set forth in the accompanying opinion:

It is ordered, That the proceeding be, and it hereby is, reopened for such purpose.

It is further ordered, That the hearing examiner's initial decision filed December 23, 1955, and the Commission's decision adopting it, issued June 1, 1956, be, and they hereby are, modified by striking from the order contained in said initial decision the paragraph numbered 1 and substituting therefor the following:

"1. Using, or placing in the hands of others for use, any forms, questionnaires or other materials, printed or written, which do not clearly reveal that the purpose for which the information is requested is that of obtaining information concerning delinquent debtors."

It is further ordered, That the respondents, Mitchell S. Mohr and Sidney Floersheim, 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 aforesaid order as modified hereby.

OPINION OF THE COMMISSION

By GWYNNE, Chairman:

This matter is before the Commission on a report and recommendation by the hearing examiner concerning an application to modify a portion of the original cease and desist order. The record has also been certified to the Commission by the hearing examiner. Respondents have filed objections to the hearing examiner's report and recommendation supported by written argument and also request oral argument thereon.

In view of the fact that the issue is a narrow one and is adequately presented in the written briefs filed herein, the request for oral argument is denied.

A brief statement of the history of this case will be sufficient at this point. The original complaint charged respondents with engaging in unfair and deceptive acts and practices through the dissemination and use of "skip tracing" forms. After a hearing, the hearing examiner entered a cease and desist order, which on appeal was adopted by the Commission. Paragraph 1 of the order required respondents to cease and desist from:

1. Using or placing in the hands of others for use, any form, questionnaire, or other material, printed or written, which represents, directly or by implication, that the purpose for which the information is requested is other than that of obtaining information concerning delinquent debtors;

Thereafter, counsel supporting the complaint filed a motion urging the reopening of the case for the consideration of modification of paragraph 1 of the order previously entered. After a hearing in which both parties participated, the Commission remanded the case to the hearing examiner for the taking of testimony and for other proceedings as provided by law and by the Rules of the Commission.

Hearings were held by the hearing examiner at which witnesses were examined and exhibits introduced. The following conclusion and recommendation was filed with the report of the hearing examiner:

It is apparent from the testimony of these twelve witnesses, as well as from examination of the physical exhibits themselves, that the various cards currently used by the respondents in their effort to obtain information for their clients concerning delinquent debtors not only fail to reveal the true purpose thereof, but

actually mislead and deceive the recipients to the extent that they do not know why the information is being requested.

Since the cards currently in use by respondents have the tendency and capacity to mislead and deceive persons to whom they may be sent, and since paragraph 1 of the Commission's outstanding order to cease and desist has given rise to confusion and controversy as to the compliance required, the public interest demands that said paragraph be revised to insure, beyond question, that such deception shall cease. Accordingly, it is recommended that the Commission's outstanding order to the respondents herein to cease and desist be modified by substituting for the current paragraph 1 thereof the following paragraph:

1. Using, or placing in the hands of others for use, any forms, questionnaires or other materials, printed or written, which do not clearly reveal that the purpose for which the information is requested is that of obtaining information concerning delinquent debtors.

The Commission, having examined the record and the briefs filed herein, adopts the findings, conclusion and recommendation of the hearing examiner.

It is directed that the present cease and desist order issued against respondents be modified by substituting for paragraph 1 of said order, the following:

1. Using, or placing in the hands of others for use, any forms, questionnaires or other materials, printed or written, which do not clearly reveal that the purpose for which the information is requested is that of obtaining information concerning delinquent debtors.

It is directed that order issue accordingly.

Order

IN THE MATTER OF

BENEFICIAL STANDARD LIFE INSURANCE COMPANY

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

Docket 6309. Complaint, Mar. 11, 1955—Order, Nov. 14, 1958

Order reopening proceeding, vacating decision of Sept. 23, 1955, 52 F.T.C. 342, and dismissing, on authority of the Supreme Court's per curiam opinion in the combined cases of *Federal Trade Commission* v. *National Casualty Company* and *Federal Trade Commission* v. *The American Hospital and Life Insurance Company*, 357 U.S. 560, complaint charging a Los Angeles insurance company with false advertising in the sale of accident and health insurance policies.

Before *Mr. J. Earl Cox*, hearing examiner.

Mr. J. W. Brookfield, Jr. and *Mr. Donald K. King* for the Commission.

Hill & Attias, of Beverly Hills, Calif., for respondent.

ORDER REOPENING PROCEEDING AND DISMISSING COMPLAINT

The respondent, pursuant to leave granted in the Commission's order of October 16, 1958, having submitted adequate proof of the facts on which it relies in support of its position that this proceeding should be reopened; and

The Commission having reconsidered the question of its jurisdiction in the matter in the light of the Supreme Court's *per curiam* opinion in the combined cases of *Federal Trade Commission* v. *National Casualty Company* and *Federal Trade Commission* v. *The American Hospital and Life Insurance Company*, 357 U.S. 560 (decided June 30, 1958):

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

It is further ordered, That the Commission's decision entered September 23, 1955, and the hearing examiner's initial decision filed August 16, 1955, be, and they hereby are, vacated and set aside.

It is further ordered, That the complaint herein be, and it hereby is, dismissed.

IN THE MATTER OF

ANDERSON PHARMACAL CORP., ET AL.

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

Docket 7178. Complaint, June 30, 1958—Decision, Nov. 14, 1958

Consent order requiring a distributor in New York City to cease representing falsely in newspaper and magazine advertising that obese persons using its "Du-Dol" drug preparation could lose weight at the rate of seven pounds a week without dieting, and that the preparation was "GUARANTEED SAFE, GUARANTEED HARMLESS."

Mr. Berryman Davis for the Commission.

Mr. Milton A. Bass, of *Bass & Friend,* of New York, N.Y. for respondents.

INITIAL DECISION BY EVERETT F. HAYCRAFT, HEARING EXAMINER

On June 30, 1958, the Federal Trade Commission issued its complaint against the above-named respondents charging them with the use of an unfair and deceptive act and practice in commerce in violation of the provisions of the Federal Trade Commission Act in the dissemination of false advertisements of a drug preparation designated "Du-Dol." In lieu of submitting answer to said complaint, the respondents entered into an agreement for consent order with counsel supporting the complaint disposing of all the issues in this proceeding in accordance with Section 3.25 of the Rules of Practice and Procedure of the Commission, which agreement has been duly approved by the Bureau of Litigation.

By the terms of said agreement, the respondents admitted all the jurisdictional facts alleged in the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. Respondents in the agreement expressly waived any further procedural steps before the hearing examiner and the Commission; the making of findings of fact or conclusions of law; and all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement.

It was further provided in said agreement that the record on which the initial decision and the decision of the Commission

shall be based shall consist solely of the complaint and the said agreement. It was further agreed that the agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission, and that said agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint. The agreement also provided that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as if entered after a full hearing; that it may be altered, modified or set aside in the manner provided for other orders; and that the complaint may be used in construing the terms of the order.

This proceeding having now come on for final consideration by the hearing examiner on the complaint and the aforesaid agreement for consent order, and it appearing that said agreement provides for an appropriate disposition of this proceeding, the aforesaid agreement is hereby accepted and is ordered filed upon becoming part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the Rules of Practice; and in consonance with the terms of said agreement, the hearing examiner makes the following jurisdictional findings and order:

1. Respondent Anderson Pharmacal Corp. is a corporation 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 3560 Broadway, New York, N.Y. Respondents Harry Evans and Anthony D'Angelo are officers of the corporate respondent. The address of the individual respondents is the same as that of the corporate respondent.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents hereinabove named. The complaint states a cause of action against said respondents under the Federal Trade Commission Act and this proceeding is in the interest of the public.

ORDER

It is ordered, That respondents, Anderson Pharmacal Corp., a corporation, and its officers, and Harry Evans and Anthony D'Angelo, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of the preparation designated Du-Dol, or any other preparation of substantially similar

composition or possessing substantially similar properties, whether sold under the same name or any other name, do forthwith cease and desist from, directly or indirectly:

1. Disseminating or causing to be disseminated 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 advertisement represents, directly or indirectly:

(a) That said preparation is safe to use by all obese persons;

(b) That obese persons can lose weight by the use of said preparation without dieting, that is, while consuming the same kinds and amounts of food as they theretofore consumed;

(c) That any predetermined weight reduction can be achieved by the taking or use of said preparation for a prescribed period of time.

2. Disseminating or causing the dissemination of any advertisement by any means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said preparation, which advertisement contains any of the representations prohibited in paragraph 1 hereof.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 14th day of November 1958, become the decision of the Commission; and, accordingly:

It is 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 the order to cease and desist.

IN THE MATTER OF

J. LICHTERMAN, INC., ET AL.

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

Docket 7183. Complaint, July 11, 1958—Decision, Nov. 14, 1958

Consent order requiring a furrier in Philadelphia, Pa., to cease violating the Fur Products Labeling Act by failing to invoice fur products as required; by advertising by means of letters, tickets, brochures, etc., which represented selling prices as reduced from so-called regular prices which were in fact fictitious, misrepresented percentage savings through the use of such claims as "Half price sale"; and by failing to maintain adequate records on which such savings representations were based.

Mr. S. F. House for the Commission.

Schnader, Harrison, Segal & Lewis, by *Mr. Edward W. Mullinix,* of Philadelphia, Pa., for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges respondents with falsely and deceptively invoicing and advertising certain of their fur products, and with failing to maintain full and adequate records disclosing the facts upon which their comparative pricing claims and representations were based, in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, and of the Federal Trade Commission Act.

After the issuance of the complaint, respondents, their counsel, and counsel supporting the complaint entered into an agreement containing consent order to cease and desist, which was approved by the director and an assistant director of the Commission's Bureau of Litigation, and thereafter transmitted to the hearing examiner for consideration.

The agreement states that respondent J. Lichterman, 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 122 South 13th Street, Philadelphia, Pa.

The agreement also states that respondent Arthur D. Lichterman is president of said corporate respondent, formulates, controls, and directs the acts, practices and policies thereof, and has the same address as that of said corporate respondent.

The agreement provides, among other things, that respondents admit all the jurisdictional facts alleged in the complaint, and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement; that the agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission; that the complaint may be used in construing the terms of the order agreed upon, which may be altered, modified or set aside in the manner provided for other orders; that the agreement is for settlement purposes only and does not constitute an admission by the respondents that they have violated the law as alleged in the complaint; and that the order set forth in the agreement and hereinafter included in this decision shall have the same force and effect as if entered after a full hearing.

Respondents waive any further procedural steps before the hearing examiner and the Commission, the making of findings of fact or conclusions of law, and all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement.

The order agreed upon fully disposes of all the issues raised in the complaint, and adequately prohibits the acts and practices charged therein as being in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, and of the Federal Trade Commission Act. Accordingly, the hearing examiner finds this proceeding to be in the public interest, and accepts the agreement containing consent order to cease and desist as part of the record upon which this decision is based. Therefore,

It is ordered, That respondents J. Lichterman, Inc., a corporation, and its officers, and Arthur D. Lichterman, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce, or the sale, advertising, offering for sale in commerce, or the transportation or distribution in commerce, of fur products, or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation or distribution of fur products which have been made in whole or in part of fur which has been shipped and received in commerce as "commerce," "fur," and "fur product" are de-

fined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Falsely or deceptively invoicing fur products by:

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

(a) The name or names of the animal or animals producing the fur or furs contained in the fur product, as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations;

(b) That the fur product contains, or is composed of used fur, when such is the fact;

(c) That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;

(d) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;

(e) The name and address of the persons issuing such invoice;

(f) The name of the country of origin of any imported furs contained in the fur product;

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

1. Represents, directly or by implication, that their regular or usual price of any fur product is any amount which is in excess of the price at which the respondents have usually and customarily sold such product in the recent and regular course of their business;

2. Represents, directly or by implication, through percentage savings claims, or otherwise, that the customary or usual retail price charged by respondents for any fur product in the recent regular course of their business is reduced in direct proportion to the amount of savings stated in the percentage savings claims, when contrary to the fact;

C. Making price claims and representations in advertisements respecting comparative prices, percentage savings claims, or claims that prices are reduced from regular or usual prices of fur products, unless there are maintained by respondents full and adequate records disclosing the facts upon which such claims or representations are based.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 14th day of November 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondents J. Lichterman, Inc., a corporation, and Arthur D. Lichterman, individually and as an officer of said corporation, 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.

IN THE MATTER OF

LONGINES-WITTNAUER WATCH COMPANY, INC., ET AL.

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

Docket 7117. Complaint, Apr. 10, 1958—Decision, Nov. 15, 1958

Consent order requiring importers of jeweled watch movements and parts from Switzerland which they assembled in their New York workshops, with sales in 1955 in excess of $20,000,000, to cease making payments for newspaper, television, and other advertising to a chain of retail jewelry stores—including six in and around Philadelphia and one in Norfolk, Va., and which acted as buyer also, and handled advertising, for four other affiliated retail jewelry dealers located in the Delaware Valley of Pennsylvania and New Jersey—without making such payments available on proportionally equal terms to all their other customers competing with such favored buyers; and requiring aforesaid retail jewelry chain and its affiliates to cease knowingly inducing and receiving such payments in excess of the limit of 3% of the amount of purchases from respondents' sellers and 50% of the cost of advertising, as set by said sellers for all other customers competing with the favored chain and affiliates.

COMPLAINT

The Federal Trade Commission, having reason to believe Longines-Wittnauer Watch Company, Inc., a corporation, and Vacheron & Constantin-Le Coultre Watches, Inc., a corporation, have violated and are now violating the provisions of subsection (d) of Section 2 of the Clayton Act (U.S.C. Title 15, Sec. 13), as amended by the Robinson-Patman Act, and the Commission having further reason to believe that Associated Barr Stores, Inc., a corporation, and Myer B. Barr, as an individual and as president of Associated Barr Stores, Inc., have violated and now are violating the provisions of Section 5 of the Federal Trade Commission 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 with respect thereto as follows:

Count I

PARAGRAPH 1. Respondents Longines-Wittnauer Watch Company, Inc., and Vacheron & Constantin-Le Coultre Watches, Inc., are corporations organized, existing, and doing business under and by virtue of the laws of the State of New York. Both said respondents have their principal office and place of business at

580 Fifth Avenue, New York 36, N.Y. For brevity the term respondents Longines, et al., shall be sometimes used herein to refer to these respondents.

PAR. 2. Respondents Longines, et al., are now and for many years have been engaged in the business of importing, assembling, distributing, and selling time keeping equipment, primarily watches.

Respondents Longines, et al., import jeweled watch movements and parts thereof from the nation of Switzerland. These items are then assembled by the said respondents in their workshops located in the State of New York. Respondents Longines, et al., then distribute and sell the products thus assembled directly to some four thousand retail dealers, primarily jewelers, located throughout the United States, who in turn resell these products to the consuming public.

Sales made by respondents Longines, et al., are substantial, being in excess of $20,000,000 for the year 1955.

PAR. 3. Respondent Vacheron & Constantin-Le Coultre Watches Inc., is a wholly owned subsidiary of respondent Longines-Wittnauer Watch Company, Inc. To all intents and purposes respondent Vacheron & Constantin-Le Coultre Watches, Inc., is operated as a division of its parent company in that both corporations are governed by identical boards of directors, occupy the same premises, the financial records of both are kept on one ledger, and the advertising policies of both are uniform and under the control of one advertising manager.

Although respondent Vacheron & Constantin-Le Coultre Watches, Inc., and respondent Longines-Wittnauer Watch Company, Inc., each has its own distinct line of watches, both lines are marketed together and advertising credits accumulated by a retail dealer through purchases of one line can be applied to advertising either line.

PAR. 4. In the course and conduct of their business, as aforesaid, respondents Longines, et al., are now engaged, and for many years have been engaged in commerce as "commerce" is defined in the Clayton Act, as amended, having sold and distributed their watches assembled in their workshops in New York and caused the same to be transported from their place of business in New York to purchasers located in other states of the United States and other places under the jurisdiction of the United States in a constant current of commerce.

PAR. 5. Respondent Associated Barr Stores, Inc., is a corpora-

tion organized, existing, and doing business under and by virtue of the laws of the State of Delaware, having its principal office and place of business at 1112–1114 Chestnut Street, Philadelphia, Pa.

PAR. 6. Respondent Associated Barr Stores, Inc., is now and for many years has been engaged in the operation of a chain of retail jewelry stores selling jewelry and a number of other products, including watches, to the consuming public. Said respondent operates six retail jewelry stores in and around Philadelphia, Pa., and one retail jewelry store in Norfolk, Va.

Respondent Associated Barr Stores, Inc., is affiliated with four other corporations, all of which are engaged in the retail jewelry business in the Delaware Valley of Pennsylvania and New Jersey. It is the practice of said respondent to purchase the merchandise requirements for all these affiliates as well as for its own requirements. These affiliates are: Barr's Jewelers, located in Camden, N.J.; Barr's Inc., located in Chester, Pa.; Gemcraft Inc., located in and around Philadelphia, Pa.; and Gemcraft of New Jersey, Inc., located in and around Camden, N.J. For brevity, these affiliates will hereinafter sometimes be referred to as affiliated corporations. In addition to acting as buyer for said affiliated corporations, respondent Associated Barr Stores, Inc., also handles substantially all advertising, including that of the products of respondents Longines, et al., sold in the stores of said affiliated corporation.

Sales made by respondent Associated Barr Stores, Inc., are substantial, being approximately $2,140,000 for the fiscal year ending June 30, 1955.

PAR. 7. Respondent Myer B. Barr, an individual, is president of respondent Associated Barr Stores, Inc., and personally directs and supervises its policies and operations. Substantially all the stock of respondent Associated Barr Stores, Inc., and its affiliated corporations, as hereinabove set out, is owned by the said Myer B. Barr and individual members of his family. The acts and practices of respondent Associated Barr Stores, Inc., as described herein have been and now are under the direct personal supervision of the said Myer B. Barr.

PAR. 8. In the course and conduct of its business as aforesaid, respondent Associated Barr Stores, Inc., and affiliated corporations are now and for many years have been in competition with other corporations, partnerships, firms and individuals located in the cities of Philadelphia and Chester, Pa., Camden, N.J., and

Norfolk, Va., who are also engaged in the selling at retail of the watches assembled, distributed and sold by respondents Longines, et al.

PAR. 9. In the course and conduct of their business in commerce, as aforesaid, and more specifically during the years 1954, 1955, and 1956, respondents Longines, et al., have sold and distributed substantial quantities of their watches to a number of retail dealers in such products in Philadelphia and Chester, Pa., Norfolk, Va., and Camden, N.J., including Associated Barr Stores, Inc., and its affiliated corporations. Respondents Longines, et al., have transported such products or caused the same to be transported from said respondents' work shops in New York or from other places located outside the Commonwealths of Pennsylvania and Virginia and the State of New Jersey to such retailer customers, including respondent Associated Barr Stores, Inc., and affiliated corporations located in the Cities of Philadelphia and Chester, Pa., Camden, N.J., and Norfolk, Va.

PAR. 10. In the course and conduct of their business in commerce, as aforesaid, and more specifically in the years 1954, 1955, and 1956, respondents Longines, et al., have paid or contracted for the payment of money, goods, or other things of value to or for the benefit of Associated Barr Stores, Inc., and affiliated corporations as compensation or in consideration for services or facilities, including newspaper, television, and other advertising media, furnished or agreed to be furnished by or through respondent Associated Barr Stores, Inc., and affiliated corporations in connection with the handling, sale, or offering for sale by respondent Associated Barr Stores, Inc., and affiliated corporations of the watches assembled, sold, and distributed by respondents Longines, et al., and respondents Longines, et al., have not made available or contracted to make available, or authorized such payments, allowances, or consideration on proportionally equal terms to all other customers competing with respondent Associated Barr Stores, Inc., and affiliated corporations in the handling, selling, or offering for sale of the watches assembled, distributed, and sold by respondents Longines, et al.

PAR. 11. The acts and practices of respondents Longines, et al., as alleged in paragraph 10 above are in violation of subsection (d) of Section 2 of the aforesaid Clayton Act, as amended.

Count II

PAR. 12. Paragraphs 1 through 11 of Count I hereof are hereby

set forth by reference and made a part of this Count as fully and with the same effect as if quoted here verbatim.

PAR. 13. In the course and conduct of their business as aforesaid, and more specifically during the years 1954, 1955, and 1956, respondents Associated Barr Stores, Inc., and Myer B. Barr knowingly induced and received and knowingly contracted for the payment of money, goods, or other things of value to the said respondents and to the affiliated corporations of respondent Associated Barr Stores, Inc., and for the benefit of said respondents and affiliated corporations from respondents Longines, et al., as compensation or in consideration for services or facilities furnished by or through said respondent Associated Barr Stores, Inc., and affiliated corporations in connection with the offering for sale or sale by said respondent and affiliated corporations of the watches assembled, distributed, and sold by respondents Longines, et al., in the course of interstate commerce, which payments or considerations said respondents Associated Barr Stores, Inc., and Myer B. Barr knew or should have known were not made available on proportionally equal terms to all other customers of respondents Longines, et al., competing with said respondent Associated Barr Stores, Inc., and affiliated corporations in the retail sale of watches assembled, distributed, and sold by respondents Longines, et al.

PAR. 14. As illustrative of the acts and practices alleged in paragraph 13 herein, although respondents Associated Barr Stores, Inc., and Myer B. Barr knew or should have known that during the years 1954, 1955, and 1956 all other corporations, partnerships, firms, or individuals competing with said respondents in the sale of the watches of respondents Longines, et al., were limited by respondents Longines, et al., with regard to the extent to which they would be reimbursed or compensated for advertising undertaken in connection with said respondents Longines, et al., in the advertising of said respondents' products, to an amount of money or other things of value not in excess of 3% of the amount of their purchases from respondents Longines, et al., for a given period of time, and also not in excess of 50% of the cost of any given advertisement; nevertheless respondents Associated Barr Stores, Inc., and Myer B. Barr knowingly induced respondents Longines, et al., to grant reimbursement or compensation to them in amounts in excess of both the above stated limits with regard to advertising undertaken by them in connection with the sale or offering for sale of the products of

respondents Longines, et al., on numerous occasions during the years 1954, 1955, and 1956.

PAR. 15. On numerous occasions during the years 1954, 1955, and 1956 respondents Associated Barr Stores, Inc., and Myer B. Barr placed advertisements, including certain of those referred to in paragraph 14 herein, in newspapers the circulations of which were not limited to the state or states of the United States in which such newspapers were published but had in addition thereto substantial circulation in one or more states outside the state of publication.

PAR. 16. The acts and practices of respondents Associated Barr Stores, Inc., and Myer B. Barr as herein alleged are part of an extensive advertising program undertaken by said respondents in conjunction with a large number of suppliers. As a result of this program said respondents have achieved and continue to maintain a dominant position with regard to advertising on the part of retail jewelers in the market areas in which said respondents are engaged. Such acts and practices enabled said respondents in 1954 to place more advertising space in the three leading newspapers circulated in Philadelphia, Pa., than all other jewelers competing with said respondents combined.

PAR. 17. The methods, acts, and practices of respondents Associated Barr Stores, Inc., and Myer B. Barr, including the inducing and receiving of payments for the advertisement of the products of respondents Longines, et al., and the advertisement in interstate media of such products offered for sale and sold in the stores of respondent Associated Barr Stores, Inc., and affiliated corporations, knowing that said payments were not made available on proportionally equal terms to all other customers competing with respondent Associated Barr Stores, Inc., and affiliated corporations, as hereinbefore alleged, are methods, acts, and practices in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 18. The methods, acts, and practices of respondents Associated Barr Stores, Inc., and Myer B. Barr, as alleged in Count II hereof, of knowingly inducing and receiving paymets or allowances from respondents Longines, et al., that said respondents knew or should have known were made by respondents Longines, et al., in violation of subsection (d) of Section 2 of the aforesaid Clayton Act as alleged in Count I hereof, are all to the prejudice and injury of the public and constitute unfair methods of com-

petition and unfair acts and practices in commerce within the intent and meaning and in violation of Section 5 of the Federal Trade Commission Act.

Mr. William H. Smith and *Mr. James R. Fruchterman* for the Commission

Goodwin, Danforth, Savage & Whitehead, of New York, N.Y., for Longines-Wittnauer Watch Co., Inc., and Vacheron & Constantin-Le Coultre Watches, Inc., and *Abrahams & Loewenstein,* by *Mr. Maurice J. Klein,* of Philadelphia, Pa., for Associated Barr Stores, Inc., and Myer B. Barr.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on April 10, 1958. Count I thereof alleges that respondent Longines-Wittnauer Watch Company, Inc., and its wholly owned subsidiary, respondent Vacheron & Constantin-Le Coultre Watches, Inc., are engaged in the business of importing, assembling, distributing, and selling timekeeping equipment, primarily watches, and that, in the course of such business, respondents import jeweled watch movements and parts thereof from Switzerland, assemble said items in their workshops located in the State of New York, and distribute and sell the products thus assembled directly to some four thousand retail dealers, primarily jewelers, located throughout the United States, for resale to the consuming public, respondents' sales during the year 1955 having been in excess of twenty million dollars. Said respondents are charged with violating §2(d) of the Clayton Act as amended, by paying or contracting for the payment of money, goods or other things of value, during the years 1954, 1955 and 1956, to, or for the benefit of, respondent Associated Barr Stores, Inc., and its affiliated corporations, as compensation or in consideration for services or facilities furnished or agreed to be furnished by or through respondent Associated Barr Stores, Inc., including newspaper, television and other advertising media, in connection with the handling, sale, or offering for sale by respondent Associated Barr Stores, Inc., and its affiliated corporations of the watches assembled, sold, and distributed by respondent Longines-Wittnauer and its subsidiary; which payments, allowances or consideration were not made available on proportionally equal terms to all of respondent Longines-Wittnauer's other customers competing with respondent Associated Barr Stores, Inc.

Count II of the complaint charges respondent Associated Barr Stores, Inc., and its president, respondent Myer B. Barr, with unfair methods of competition and unfair acts and practices in commerce in violation of §5 of the Federal Trade Commission Act, by knowingly inducing, receiving and contracting for such unlawful payments, allowances or consideration, which they "knew or should have known" were not being offered on proportionally equal terms to all those of their competitors who were also customers of respondents Longines-Wittnauer Watch Company, Inc., and Vacheron & Constantin-Le Coultre Watches, Inc., subsidiary thereof.

On July 23, 1958, respondents Associated Barr Stores, Inc., and Myer B. Barr, their counsel, and counsel supporting the complaint entered into an Agreement Containing Consent Order to Cease and Desist, and on September 19, 1958, respondents Longines-Wittnauer Watch Company, Inc., and Vacheron & Constantin-Le Coultre Watches, Inc., their counsel, and counsel supporting the complaint entered into a similar agreement. Both agreements were approved by the director and an assistant director of the Commission's Bureau of Litigation, and thereafter submitted to the hearing examiner for consideration.

The first agreement identifies respondent Associated Barr Stores, Inc., as a Delaware corporation, having its principal office and place of business at 1112–1114 Chestnut Street, Philadelphia, Pa., and individual respondent Myer B. Barr as president thereof, and having the same address. The second agreement identifies respondents Longines-Wittnauer Watch Company, Inc., and Vacheron & Constantin-Le Coultre Watches, Inc. as New York corporations, with their office and principal place of business located at 580 Fifth Avenue, New York, N.Y.

In both agreements, respondents admit all the jurisdictional facts alleged in the complaint, and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

Respondents waive any further procedure before the hearing examiner and the Commission; the making of findings of fact and conclusions of law; and all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement. All parties agree that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and each agreement as to the parties signatory thereto; that the

order to cease and desist, as contained in each agreement, when it shall have become a part of the decision of the Commission, shall have the same force and effect as if entered after a full hearing, and may be altered, modified or set aside in the manner provided for other orders; that the complaint herein may be used in construing the terms of said order; and that the agreement is for settlement purposes only, and does not constitute an admission by the respondents that they have violated the law as alleged in the complaint.

After consideration of the allegations of the complaint, the provisions of the two agreements, each as to the parties signatory thereto, and the proposed orders, the hearing examiner is of the opinion that such orders constitute a satisfactory disposition of this proceeding. Accordingly, in consonance with the terms of the aforesaid agreements, the hearing examiner accepts the two Agreements Containing Consent Order to Cease and Desist; finds that the Commission has jurisdiction over the respondents and over their acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

It is ordered, That respondents Longines-Wittnauer Watch Company, Inc., and Vacheron & Constantin-Le Coultre Watches, Inc., their officers, employees, agents, and representatives, directly or through any corporate or other device in connection with the sale of watches in commerce, as "commerce" is defined in the Clayton Act, as amended, do forthwith cease and desist from:

Paying or contracting for the payment of anything of value to or for the benefit of Associated Barr Stores, Inc., or any other customer, as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the offering for sale, sale, or distribution of respondents' products unless such payment or consideration is made available on proportionally equal terms to all other customers competing in the distribution of such products.

It is further ordered, That respondent Associated Barr Stores, Inc., a corporation, its officers, and Myer B. Barr, an individual, and their respective representatives, agents, and employees, directly or through any corporate or other device, in or in connection with the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of jewelry or other products, do forthwith cease and desist from:

Knowingly inducing, receiving, or contracting for the receipt

of, the payment of anything of value from any supplier as compensation or in consideration for advertising or other services or facilities furnished by or through the corporate respondent, its affiliates, subsidiaries, or successors, in connection with the handling, offering for resale or resale by said corporate respondent, its affiliates, subsidiaries, or successors, of said products, when such payment or other consideration is not made available by such supplier on proportionally equal terms to all other customers competing with said corporate respondent, its affiliates, subsidiaries or successors in the sale or distribution of such products.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 15th day of November 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondents, as named in the caption hereof, 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.

IN THE MATTER OF

B & C DISTRIBUTORS CO., ET AL.

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

Docket 7077. Complaint, Feb. 28, 1958—Decision, Nov. 18, 1958

Consent order requiring two associated distributors of radio and television tubes, principally to jobbers, to disclose clearly on cartons, in advertising, invoicing and shipping memoranda, when the tubes they sold were used, pull-outs, factory rejects, or JAN surplus.

The proceeding as to the remaining individual respondent was disposed of by order with the same provisions on Dec. 13, 1958, p. 866 herein.

Mr. Kent P. Kratz for the Commission.

Brenman and Susser, by *Mr. Herbert Susser*, of Paterson, N.J., for all respondents except Edward Chernela.

INITIAL DECISION AS TO ALL RESPONDENTS EXCEPT EDWARD CHERNELA BY J. EARL COX, HEARING EXAMINER

The complaint charges respondents with failure to disclose the true nature of the used, pullout, factory reject and JAN surplus radio and television tubes which they sell and distribute in commerce, thereby misleading and deceiving the public into the erroneous belief that such tubes are unused, new, and first quality tubes, in violation of the provisions of the Federal Trade Commission Act.

After the issuance of the complaint, all respondents except Edward Chernela, their counsel, and counsel supporting the complaint entered into an agreement containing consent order to cease and desist, which was approved by the director and an assistant director of the Commission's Bureau of Litigation, and thereafter transmitted to the hearing examiner for consideration.

The agreement identifies respondents B & C Distributors Co. and Revere Labs., Inc., as New Jersey corporations, with their office and principal place of business located at 840 Main Street, Paterson, N.J., and individual respondents Philip L. Bornstein and Celia Bornstein as president and secretary, respectively, of each of said corporations, and having the same address.

The agreement provides, among other things, that respondents admit all the jurisdictional facts alleged in the complaint, and agree that the record may be taken as if findings of jurisdictional

facts had been duly made in accordance with such allegations; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement; that the agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission; that the complaint may be used in construing the terms of the order agreed upon, which may be altered, modified or set aside in the manner provided for other orders; that the agreement is for settlement purposes only and does not constitute an admission by the respondents that they have violated the law as alleged in the complaint; and that the order set forth in the agreement and hereinafter included in this decision shall have the same force and effect as if entered after a full hearing.

Respondents waive any further procedural steps before the hearing examiner and the Commission, the making of findings of fact or conclusions of law, and all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement.

The order agreed upon fully disposes of all the issues raised in the complaint as to the respondents signatory to said agreement, and adequately prohibits as to them the acts and practices charged as being in violation of the Federal Trade Commission Act. Accordingly, the hearing examiner accepts the agreement containing consent order to cease and desist as part of the record upon which this decision is based.

After consideration of the entire record herein, the hearing examiner finds this proceeding to be in the public interest. Therefore,

It is ordered, That respondents B & C Distributors Co., a corporation, Revere Labs., Inc., a corporation, and their officers and Philip L. Bornstein and Celia Bornstein, individually and as officers of said corporations, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of television or radio tubes in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Selling, offering for sale, or distributing used, pullouts, factory rejects or JAN surplus radio or television tubes without clearly disclosing on the tubes or on individual cartons in which each tube is packaged when sold this way, and in advertising,

invoices and shipping memoranda that they are used, pullouts, factory rejects, or JAN surplus tubes as the case may be;

2. Selling, offering for sale, or distributing any radio or television tube which is not new or first quality without clearly and conspicuously disclosing that fact on the tube or the individual carton in which such tube is packaged when sold this way, and in advertising, invoices and shipping memoranda.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 18th day of November 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondents B & C Distributors Co., a corporation, Revere Labs., Inc., a corporation, and their officers and Philip L. Bornstein and Celia Bornstein, individually and as officers of said corporations, 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.

IN THE MATTER OF

THE JOHN BRESSMER COMPANY

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

Docket 7186. Complaint, July 11, 1958—Decision, Nov. 18, 1958

Consent order requiring a furrier in Springfield, Ill., to cease violating the Fur Products Labeling Act by failing to comply with the labeling and invoicing requirements and by advertising in newspapers and otherwise which failed to disclose the names of animals producing certain furs, the country or origin of imported furs, or that some furs were artificially colored; failed to set forth the term "Persian Lamb," "Dyed Mouton-processed Lamb," and "Dyed Broadtail-processed Lamb" as required; and contained the names of other animals than those producing certain furs.

John T. Walker, Esq., for the Commission.

Ensel, Martin, Jones & Blanchard, of Springfield, Ill., for respondent.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

The complaint in this proceeding, issued July 11, 1958, charges the respondent above named with violation of the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act and the Rules and Regulations promulgated under the last-named Act, in connection with the introduction, or the sale, advertising, or offering for sale in commerce, or the transportation or distribution in commerce, of fur and fur products, as the designations "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act.

After the issuance of said complaint respondent, on September 16, 1958, entered into an agreement for a consent order with counsel in support of the complaint, disposing of all of the issues in this proceeding, which agreement was duly approved by the director and assistant director of the Bureau of Litigation of the Federal Trade Commission. It was expressly provided in said agreement that the signing thereof is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

By the terms of said agreement, the respondent admitted all of the jurisdictional allegations of the complaint and agreed that

the record herein may be taken as though the Commission had made findings of jurisdictional facts in accordance with such allegations. By said agreement the parties expressly waived a hearing before the hearing examiner or the Commission, the making of findings of fact or conclusions of law by the hearing examiner or the Commission, the filing of exceptions and oral argument before the Commission, and all further and other procedure before the hearing examiner and the Commission to which the respondent may otherwise be entitled under the Federal Trade Commission Act or the Rules of Practice of the Commission.

By said agreement, respondent further agreed that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as though made after a full hearing, presentation of evidence and findings and conclusions thereon, and specifically waived any and all right, power or privilege to challenge or contest the validity of such order.

It was further provided that said agreement, together with the complaint, shall constitute the entire record herein; that the complaint herein may be used in construing the terms of the order issued pursuant to said agreement; and that the said order may be altered, modified or set aside in the manner provided for other orders of the Commission.

Said agreement recites that respondent The John Bressmer Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 616 East Adams Street, Springfield, Ill.

The hearing examiner has considered such agreement and the order therein contained, and, it appearing that said agreement and order provides for an appropriate disposition of this proceeding, the same is hereby accepted and, without further notice to respondent, is ordered filed upon becoming part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the Rules of Practice, and in consonance with the terms of said agreement, the hearing examiner finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent named herein, and that this proceeding is in the interest of the public, wherefore he issues the following order:

ORDER

It is ordered, That The John Bressmer Company, a corporation, and its officers, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising, or offering for sale in commerce, or the transportation or distribution, in commerce, of any fur product, or in connection with the sale, advertising, offering for sale, transportation, or distribution of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Misbranding fur products by:

A. Failing to affix labels to fur products showing:

(1) The name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations;

(2) That the fur product contains or is composed of used fur, when such is the fact;

(3) That the fur product contains or is composed of bleached, dyed or otherwise artificially colored fur, when such is the fact;

(4) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;

(5) The name or other identification issued and registered by the Commission of one or more persons who manufactured such fur product for introduction into commerce, introduced it into commerce, sold it in commerce, advertised or offered it for sale, in commerce, or transported or distributed it in commerce;

(6) The name of the country of origin of any imported furs contained in a fur product.

2. Falsely and deceptively invoicing fur products by:

A. Failing to furnish invoices to purchasers of fur products showing:

(1) The name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations;

(2) That the fur product contains or is composed of used fur, when such is the fact;

(3) That the fur product contains or is composed of bleached, dyed or otherwise artificially colored fur, when such is the fact;

(4) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;

(5) The name and address of the person issuing such invoices;

(6) The name of the country of origin of any imported furs contained in a fur product.

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

A. Fails to disclose:

(1) The name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide, and as prescribed under the Rules and Regulations;

(2) That the fur product contains or is composed of bleached, dyed or otherwise artificially colored fur, when such is the fact;

(3) The name of the country of origin of any imported furs contained in a fur product.

B. Sets forth the name or names of any animal or animals other than the name or names specified in Section 5(a)(1) of the Fur Products Labeling Act.

C. Fails to set forth the term "Persian Lamb" in the manner required by law.

D. Fails to set forth the term "Dyed Mouton-processed Lamb" in the manner required by law.

E. Fails to set forth the term "Dyed Broadtail-processed Lamb" in the manner required by law.

4. Making pricing claims or representations in advertisements respecting comparative prices or reduced prices unless there is maintained by respondent adequate records disclosing the facts upon which such claims or representations are based.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 18th

day of November 1958, become the decision of the Commission; and, accordingly:

It is 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 the order to cease and desist.

IN THE MATTER OF

BUSCH & SONS JEWELERS, INC., ET AL.

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

Docket 7199. Complaint, July 18, 1958—Decision, Nov. 18, 1958

Consent order requiring two associated jewelry retailers, one with two stores located in Newark and Summit, N.J., respectively, and the other with two in Dallas and Abilene, Tex., to cease representing falsely in advertising in newspapers that they offered for sale smuggled diamonds purchased from the Government at 15% above the price paid, including individual diamonds of weights set forth in the three-column list in the advertisements; facts being the diamonds bought from the Government were a bulk lot and no particular amount was paid for any particular diamond, and many of the individual diamonds of the weights set out were not included in the lot purchased from the Government.

Mr. S. F. House for the Commission.
No appearance for respondents.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondents with making certain misrepresentations in connection with the sale of diamonds to the public. An agreement has now been entered into by respondents and counsel supporting the complaint which provides, among other things, that respondents admit all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondents specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified, or set aside in the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and proposed order and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional finds made and the following order issued:

1. Respondent Busch & Sons Jewelers, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at 875 Broad Street, Newark, N.J.

Respondent Busch & Sons of Texas, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Texas, with its office and principal place of business located at 1707 Main Street, Dallas, Tex.

Individual respondents George J. Busch, Jr., and Raymond F. Sargent are officers of both corporations. Their address is 875 Broad Street, Newark, N.J.

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 Busch & Sons Jewelers, Inc., a corporation, Busch & Sons of Texas, Inc., a corporation, and their officers and George J. Busch, Jr., and Raymond F. Sargent, individually and as officers of said corporations, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of diamonds or other articles of merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication:

1. That merchandise offered for sale has been purchased by respondents at a certain stated price or for certain stated amounts, unless such is the fact.

2. That any specific article of merchandise offered for sale was acquired by respondents as a result of a certain described purchase or from a certain stated source, unless such is the fact.

3. That merchandise is offered for sale at a certain stated percentage or amount above the purchase price, unless such is the fact.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 18th day of November 1958, become the decision of the Commission; and, accordingly:

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

IN THE MATTER OF

PSYCHOLOGICAL CORPORATION, ET AL.

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

Docket 6967. Complaint, Nov. 29, 1957—Decision, Nov. 19, 1958

Consent order requiring the nation's four largest publishers of vocational, aptitude, and psychological tests and related material—constituting the only source of supply for much of said products—to cease refusing concertedly to sell to concerns conducting tests by mail, maintaining lists of such firms and persons, and exchanging such lists and information concerning prospective customers to whom they would not sell.

Mr. Floyd O. Collins and *Mr. L. E. Creel, Jr.*, for the Commission.

Paul, Reiss, Rifkind, Wharton & Garrison, by *Mr. Howard A. Seitz, Mr. Jay H. Topkis* and *Mr. Samuel J. Silverman*, of New York, N.Y., for Psychological Corporation and Science Research Associates;

Breed, Abbott & Morgan, by *Mr. Kendall B. DeBevoise* and *Mr. John J. Campbell*, of New York, N.Y., for World Book Co.

Respondent California Test Bureau, for itself.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

On November 27, 1957, the Federal Trade Commission issued its complaint in this proceeding, charging respondents with violating the provisions of §5 of the Federal Trade Commission Act by entering into and thereafter carrying out understandings, agreements and a planned common course of action to restrict and restrain competition and interstate trade and commerce in the sale and distribution of vocational, aptitude and psychological tests and materials to be used in conducting tests.

On September 11, 1958, respondents, their counsel, and counsel supporting the complaint herein entered into an Agreement Containing Consent Order to Cease and Desist, which was signed on the original copy by all respondents except California Test Bureau, and by that respondent on an identical carbon copy; both signed copies of the agreement were then approved by the director and an assistant director of the Commission's Bureau of Litigation, and thereafter the agreement was submitted to the hearing examiner for consideration.

The agreement identifies respondent Psychological Corporation as a New York corporation with its home office located at 522 Fifth Avenue, New York, N.Y.; respondent Science Research Associates as an Illinois corporation with its home office and principal place of business located at 57 W. Grand Avenue, Chicago, Ill.; respondent World Book Company as a Delaware corporation with its home office and principal place of business located at Yonkers-on-Hudson, N.Y.; and respondent California Test Bureau as a California corporation with its home office and principal place of business located at 5916 Hollywood Boulevard, Los Angeles, Calif.

Respondents admit all the jurisdictional facts alleged in the complaint, and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

Respondents waive any further procedure before the hearing examiner and the Commission; the making of findings of fact and conclusions of law; and all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement. All parties agree that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the order to cease and desist, as contained in the agreement, when it shall have become a part of the decision of the Commission, shall have the same force and effect as if entered after a full hearing, and may be altered, modified or set aside in the manner provided for other orders; that the complaint herein may be used in construing the terms of said order; and that the agreement is for settlement purposes only, and does not constitute an admission by the respondents that they have violated the law as alleged in the complaint.

After consideration of the allegations of the complaint and the provisions of the agreement and the proposed order, the hearing examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding. Accordingly, in consonance with the terms of the aforesaid agreement, the hearing examiner accepts the Agreement Containing Consent Order to Cease and Desist; finds that the Commission has jurisdiction over the respondents and over their acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

It is ordered, That the respondents, Psychological Corporation,

a corporation, Science Research Associates, a corporation, World Book Company, a corporation, and the California Test Bureau, a corporation, and said respondents' officers, agents, representatives and employees, in or in connection with the composing and publishing, offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of vocational, aptitude, psychological and similar tests and material to be used in conducting tests, do forthwith cease and desist from entering into, continuing, cooperating in, or carrying out any planned common course of action, understanding, combination or agreement, between any two or more of said respondents or between or among any one or more of said respondents and others not parties hereto to do or perform any of the following acts or practices:

(a) Refusing to sell their said tests and material to be used in conducting tests to any purchaser or prospective purchaser;

(b) Preparing or maintaining any lists of purchasers or prospective purchasers to whom they will not sell;

(c) Exchanging information as to the names of purchasers or prospective purchasers to whom they will not sell.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 19th day of November 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Psychological Corporation, a corporation; Science Research Association, a corporation; World Book Company, a corporation; and California Test Bureau, a corporation, 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.

IN THE MATTER OF

G. P. HALFERTY & CO., ET AL.

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

Docket 7035. Complaint, Jan. 14, 1958—Decision, Nov. 19, 1958

Consent order requiring a Seattle, Wash., broker of sea food, particularly canned salmon—selling its own pack as well as acting as broker for various principals—to cease violating the brokerage provision of the Clayton Act by selling its principals' products to certain favored buyers at lower net prices than those accounted for to the principals; by selling its own products to certain favored buyers at net prices lower than those to non-favored buyers, which reflected brokerage or a discount in lieu thereof; and by granting to at least one large direct buyer a rebate of 2½% percent, the customary brokerage fee, under the guise of promotional allowances.

COMPLAINT

The Federal Trade Commission, having reason to believe that the parties respondent named in the caption hereof, and hereinafter more particularly designated and described, have been and are now violating the provisions of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Sec. 13), hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. The respondent G. P. Halferty & Co., hereinafter sometimes referred to as corporate respondent, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Washington, with its principal office and place of business located at 508 Colman Building, Seattle, Wash.

PAR. 2. Respondent Guy P. Halferty is an individual and is president of corporate respondent. He maintains his principal office and place of business at 508 Colman Building, Seattle, Wash. He is sometimes referred to herein as individual respondent or as respondent Halferty. Respondent Halferty owns, all or substantially all of the capital stock of corporate respondent and is responsible for its acts and practices, including its purchase, sales and distribution policies. Respondent Halferty also owns substantial interest in and is president of Halferty Canneries, Inc., a Washington corporation which owns and operates canneries in Kodiak, Cordona, and Juneau, Alaska. Respondent Halferty

also owns a substantial interest in and is president of Pioneer Canneries, Inc., a Washington corporation which owns a clam packing plant at Aberdeen, Wash.

PAR. 3. Respondents, both corporate and individual, for the past several years have been, and are now, engaged in the business of selling and distributing seafood products, including canned salmon, all of which are hereinafter sometimes referred to as sea food products, obtained from Halferty Canneries, Inc., and Pioneer Canneries, Inc., substantially owned and controlled by individual respondent Halferty as indicated in paragraph 2. These seafood products are obtained from these canneries by respondents on a cost plus 5% basis, with no commission allowed or paid by the packer to either the individual or corporate respondent in connection with these purchases. Respondents, both corporate and individual, resell these seafood products in the name of the corporate respondent to customers located in the various States of the United States. In addition, respondents, both corporate and individual, act as sales agent, or primary broker for various packer principals in the sale and distribution of their seafood products, for which respondents are paid for their services by their principals a commission or brokerage fee at the rate of 5 percent of the net selling price of the merchandise sold. Respondents are substantial factors in the seafood industry, particularly with respect to canned salmon.

PAR. 4. In the sale and distribution of their own seafood products, as well as the seafood products of their principals, respondents are usually represented in the various marketing areas throughout the United States by local or field brokers, hereinafter referred to as field brokers. These field brokers are generally compensated by respondents for their services in making the sales by the payment of a brokerage fee or commission at the rate of 2½% of the net selling price of the merchandise sold. In many instances, however, respondents make substantial sales direct to at least one certain favored customer without utilizing the services of their field brokers in these particular transactions, and on these sales, pay, grant or allow to this customer rebates in lieu of brokerage under the guise of promotional allowance of 2½ percent or approximately 2½ percent of the net selling price of the merchandise.

PAR. 5. In the course and conduct of their business in commerce for the past several years, respondents, both corporate and individual, have sold and distributed and now sell and dis-

tribute seafood products in commerce, as "commerce" is defined in the aforesaid Clayton Act, to buyers located in the several States of the United States, other than the State of Washington in which respondents are located. The respondents transport or cause such seafood products, when sold, to be transported from their place of business in the State of Washington to customers located in various other States of the United States. There has been at all times mentioned herein a continuous course of trade in commerce in such seafood products across state lines between respondents and the respective purchasers of said products.

PAR. 6. In connection with the sale and distribution of their seafood products in commerce respondents, both corporate and individual, have made sales to certain favored customers at reduced prices which reflect brokerage and have granted or allowed rebates in lieu of brokerage to at least one large buyer with a number of branches located in several cities of North Carolina, South Carolina and Florida. Among and including, but not necessarily limited to, the method or means employed by respondents in so doing are the following:

(a) Selling their principals' seafood products to certain favored buyers at net prices which were less than those accounted for to respondents' packer-principals.

(b) Selling their own seafood products to certain favored buyers at net prices lower than the prices to nonfavored buyers, which prices reflect brokerage or a discount in lieu thereof.

(c) Granting to at least one large buyer purchasing direct, without utilizing the services of field brokers, an allowance or rebate of 2½ percent, or approximately 2½ percent, of the net selling price of the merchandise, under the guise of a promotional allowance.

PAR. 7. The acts and practices of the respondents, both corporate and individual, as alleged and described herein, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C., Title 15, Sec. 13).

Mr. Cecil G. Miles and *Mr. John J. McNally* for the Commission.

Ryan, Askren, Mathewson, Carlson & King, by *Mr. Snyder J. King,* of Seattle, Wash., for respondents.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on January 14, 1958, charging respondents with paying, granting or allowing rebates in lieu of

brokerage, on direct sales of their seafood products, including canned salmon, to at least one favored customer and to at least one large buyer, without utilizing the services of field brokers; and with selling said products to certain favored customers at reduced prices which reflect brokerage, in violation of §2(c) of the Clayton Act as amended (U.S.C. Title 15, §13).

Thereafter, on August 21, 1958, Respondents, their counsel, and counsel supporting the complaint entered into an Agreement Containing Consent Order to Cease and Desist, which was approved by the director and an assistant director of the Commission's Bureau of Litigation, and thereafter submitted to the Hearing Examiner for consideration.

The agreement identifies Respondent G. P. Halferty & Co. as a Washington corporation, with its office and principal place of business located at 508 Colman Building, Seattle, Wash., and Respondent Guy P. Halferty as an individual and as president of said corporate respondent, and having the same address as the corporate respondent.

Respondents admit all the jurisdictional facts alleged in the complaint, and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

Respondents waive any further procedure before the hearing examiner and the Commission; the making of findings of fact and conclusions of law; and all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement. All parties agree that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the order to cease and desist, as contained in the agreement, when it shall have become a part of the decision of the Commission, shall have the same force and effect as if entered after a full hearing, and may be altered, modified or set aside in the manner provided for other orders; that the complaint herein may be used in construing the terms of said order; and that the agreement is for settlement purposes only, and does not constitute an admission by the respondents that they have violated the law as alleged in the complaint.

After consideration of the allegations of the complaint and the provisions of the agreement and the proposed order, the hearing examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding. Accordingly, in con-

sonance with the terms of the aforesaid agreement, the hearing examiner accepts the Agreement Containing Consent Order to Cease and Desist; finds that the Commission has jurisdiction over the respondents and over their acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

It is ordered, That G. P. Halferty & Co., a corporation, and its officers, and Guy P. Halferty, individually and as an officer of said corporate respondent, and respondents' representatives, agents, or employees, directly or through any corporate or other device in connection with the sale of seafood products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

1. Paying, granting, or allowing, directly or indirectly, to any buyer, or to anyone acting for or in behalf of or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of their seafood products to such buyer for his own account;

2. Paying, granting, or passing on, either directly or indirectly, to any buyer or to anyone acting for or in behalf of or subject to the direct or indirect control of such buyer, brokerage earned or received by respondents on sales made for their packer-principals, by allowing to buyers lower prices which reflect all or any part of such brokerage, or by granting them allowances or rebates which are in lieu of such brokerage, or by any other method or means.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 19th day of November 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondents G. P. Halferty & Co., a corporation, and Guy P. Halferty, individually and as an officer of said corporation, 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.

IN THE MATTER OF

WHIZ FISH PRODUCTS COMPANY, ET AL.

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

Docket 7089. Complaint, Mar. 20, 1958—Decision, Nov. 19, 1958

Consent order requiring Seattle, Wash., packers and distributors of sea food, including canned salmon and tuna, to cease violating the brokerage section of the Clayton Act by granting to direct buyers a discount in the amount of the usual brokerage; selling to certain customers at reduced prices, the reductions reflecting brokerage; and selling through their brokers to certain buyers at reduced prices offset by cutting the brokers' commission.

COMPLAINT

The Federal Trade Commission, having reason to believe that the parties respondent named in the caption hereof, and hereinafter more particularly designated and described, have been and are now violating the provisions of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Sec. 13), hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Whiz Fish Products Company, hereinafter sometimes referred to as Whiz or as corporate respondent, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Washington. Respondents Charles D. Alhadeff, Jack J. Alhadeff and Ike N. Alhadeff are individuals and are president, vice president and secretary-treasurer, respectively, of said corporate respondent. Said individual respondents own all or substantially all of the capital stock of the corporate respondent, and in conjunction and cooperation with each other, formulate, direct and control the acts, practices and policies of the corporate respondent, including its sales and distribution policies. The principal office and place of business of said corporate and individual respondents is located at 2000 Alaskan Way, Seattle, Wash.

PAR. 2. Respondents, both corporate and individual, are now and for many years past have been engaged in the business of packing, selling and distributing seafood products, including canned salmon and tuna, and to a minor degree canned pet food, all of which are hereinafter referred to as food products. In addi-

tion to their own packing operations, respondents sell and distribute large amounts of seafood packed by others, as well as seafood packed through joint packing operations between respondents and other packers. Respondents are substantial factors in the canned seafood industry, and particularly canned salmon. In marketing their food products, respondents are represented by a number of food brokers located in various marketing areas throughout the United States, which brokers are normally paid for their services by respondents at the rate of 2½ percent of the net selling price of the merchandise sold. Respondents also make sales to certain of their customers direct without utilizing the services of their brokers in making these particular sales.

PAR. 3. In the course and conduct of their business, as aforesaid, respondents, and each of them, directly or indirectly, have shipped or transported said food products, or caused the same, when sold, to be shipped or transported from the canning plants or warehouses of respondents to buyers located in the various States of the United States other than the state or territory of origin of such shipments. Thus the respondents are now, and for the past several years have been, engaged in a continuous course of trade in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended.

PAR. 4. In the course and conduct of their business of selling and distributing food products in commerce, as aforesaid, the respondents, and each of them, have paid, granted or allowed, and are now paying, granting or allowing, something of value as a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection with the sale and distribution of their food products to certain customers purchasing for their own accounts, or to agents or intermediaries who are, in fact, acting for or in behalf of, or who are subject to the direct or indirect control of said buyers, Among and including, but not necessarily limited to, the methods or means employed by respondents in so doing are the following:

(a) Selling their food products to certain buyers direct, without utilizing the services of their brokers, and granting an allowance or discount to these buyers in the approximate amount of the brokerage normally paid their brokers on such sales.

(b) Selling to certain customers at reduced prices which reflect all, or a part of the normal brokerage generally paid to their brokers.

(c) Selling through their brokers to certain buyers at reduced

prices, which reductions are offset in whole or in part by a partial reduction of the brokerage or commission normally paid their brokers for making such sales.

PAR. 5. The acts and practices of the respondents, and each of them, as alleged and described herein, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Sec. 13).

Mr. Cecil G. Miles and *Mr. John J. McNally* for the Commission.

Ryan, Askren, Mathewson, Carlson & King, by *Mr. Snyder J. King,* of Seattle, Wash., for respondents.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on March 20, 1958, charging respondents with paying, granting or allowing something of value as commission, brokerage or other compensation, or allowance or discount in lieu thereof, in connection with the sale of their food products, including canned salmon and tuna and, to a minor degree, canned pet food, to buyers purchasing for their own account for resale, or to agents or intermediaries acting for or in behalf of, or subject to the direct or indirect control of, said buyers, in violation of §2(c) of the Clayton Act as amended (U.S.C. Title 15, §13).

Thereafter, on August 21, 1958, Respondents, their counsel, and counsel supporting the complaint entered into an Agreement Containing Consent Order to Cease and Desist, which was approved by the director and an assistant director of the Commission's Bureau of Litigation, and thereafter submitted to the hearing examiner for consideration.

The agreement identifies respondent Whiz Fish Products Company as a Washington corporation, with its office and principal place of business located at 2000 Alaskan Way, Seattle, Wash., and respondents Charles D. Alhadeff, Jack J. Alhadeff, and Ike N. Alhadeff as individuals and as officers of said respondent corporation, and having the same address as the corporate respondent.

Respondents admit all the jurisdictional facts alleged in the complaint, and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

Respondents waive any further procedure before the hearing examiner and the Commission; the making of findings of fact and conclusions of law; and all of the rights they may have to

challenge or contest the validity of the order to cease and desist entered in accordance with the agreement. All parties agree that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the order to cease and desist, as contained in the agreement, when it shall have become a part of the decision of the Commission, shall have the same force and effect as if entered after a full hearing, and may be altered, modified or set aside in the manner provided for other orders; that the complaint herein may be used in construing the terms of said order; and that the agreement is for settlement purposes only, and does not constitute an admission by the respondents that they have violated the law as alleged in the complaint.

After consideration of the allegations of the complaint and the provisions of the agreement and the proposed order, the hearing examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding. Accordingly, in consonance with the terms of the aforesaid agreement, the hearing examiner accepts the Agreement Containing Consent Order to Cease and Desist; finds that the Commission has jurisdiction over the respondents and over their acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

It is ordered, That Whiz Fish Products Company, a corporation, and its officers, and Charles D. Alhadeff, Jack J. Alhadeff, and Ike N. Alhadeff, individually and as officers of said respondent corporation, and respondents' agents, representatives or employees, directly or through any corporate or other device, in connection with the sale of seafood products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting, allowing, or passing on, directly or indirectly, to any buyer, or to anyone acting for or in behalf of or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of seafood products to such buyer for his own account.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice,

the initial decision of the hearing examiner shall, on the 19th day of November 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Whiz Fish Products Company, a corporation, and Charles D. Alhadeff, Jack J. Alhadeff, and Ike N. Alhadeff, individually and as officers of said corporation, 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.

Decision

IN THE MATTER OF

GENERAL PRODUCTS CORPORATION, ET AL.

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

Docket 7102. Complaint, Mar. 28, 1958—Decision, Nov. 19, 1958

Consent order requiring distributors in Los Angeles, Calif., of drug preparations containing vitamins and minerals, to cease representing falsely in advertising, including radio broadcasts, that their "VCS" preparation was cheaper than competing products, that the price was specially reduced for a limited time only and available to selected customers only, that the product supplied users with all the essential vitamins and minerals and was of value in conditions resulting from vitamin and mineral deficiensies; and that their "Pounds-Off" preparation contained a newly discovered antihunger ingredient, and that by its use once a day a specific weight loss would be achieved in a prescribed period.

Mr. John J. McNally for the Commission.

Mr. Lee J. Myers, of Long Beach, Calif., for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges respondents with the dissemination of false advertisements of their drug and food preparations designated "VCS Formula" and "Pounds-Off", including, but not limited to, radio broadcasts transmitted by the west coast stations of the CBS network, covering the States of Washington, Oregon, and California, which advertisements are misleading in material respects and constitute unfair and deceptive acts and practices in commerce, in violation of the Federal Trade Commission Act.

After the issuance of the complaint, respondents, their counsel, and counsel supporting the complaint entered into an agreement containing consent order to cease and desist, which was approved by the director and an assistant director of the Commission's Bureau of Litigation, and thereafter transmitted to the hearing examiner for consideration.

The agreement identifies Respondent General Products Corporation as a California corporation, with its office and principal place of business located at 541 North Le Brea, Los Angeles, Calif., and respondents David Ormont and Alan Mann as individuals and officers of the respondent corporation, having the same offices and places of business as respondent corporation.

The agreement provides, among other things, that respondents

admit all the jurisdictional facts alleged in the complaint, and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement; that the agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission; that the complaint may be used in construing the terms of the order agreed upon, which may be altered, modified or set aside in the manner provided for other orders; that the agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint; and that the order set forth in the agreement and hereinafter included in this decision shall have the same force and effect as if entered after a full hearing.

Respondents waive any further procedural steps before the hearing examiner and the Commission, the making of findings of fact or conclusions of law, and all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement.

The order agreed upon fully disposes of all the issues raised in the complaint, and adequately prohibits the acts and practices charged therein as being in violation of the Federal Trade Commission Act. Accordingly, the hearing examiner finds this proceeding to be in the public interest, and accepts the agreement containing consent order to cease and desist as part of the record upon which this decision is based. Therefore,

It is ordered, That respondents, General Products Corporation, and its officers, and David Ormont, and Alan Mann, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of "VCS Formula" and "Pounds-Off", or any preparations of substantially similar composition or possessing substantially similar properties, whether sold under the same names or any other names, do forthwith cease and desist from, directly or indirectly:

1. Disseminating or causing to be disseminated any advertise-

ment by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or indirectly:

(a) That significant savings in money may be realized through the use of "VCS Formula" in preference to other vitamin and mineral products, unless such is the fact;

(b) That the price at which "VCS Formula" is being offered is a special or reduced price when the price is in fact the regular and customary price at which the product is sold by respondents or that the offer is for only a limited time;

(c) That the price at which "VCS Formula" is being offered is available to selected customers only;

(d) That "VCS Formula" supplies all of the essential vitamins and minerals to the users thereof;

(e) That "VCS Formula" is of value in the correction of a tired-out, run-down feeling, or any other symptom or condition resulting from a vitamin or mineral deficiency, unless expressly limited to instances resulting from a deficiency of one or more of the vitamins supplied in amounts exceeding the minimum daily requirements when taken according to directions;

(f) That through the use of the "Pounds-Off" plan, or product, specific or predetermined loss of weight will be achieved within a prescribed period of time;

(g) That "Pounds-Off" contains a newly discovered antihunger ingredient;

(h) That in using the "Pounds-Off" plan you need take "Pounds-Off" only once each day;

2. Disseminating or causing the dissemination of any advertisement by any means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said preparations, which advertisement contains any of the representations prohibited in paragraph 1 hereof.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 19th day of Novmeber 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondents General Products Corporation, a corporation, and David Ormont and Alan Mann, individually and as officers of said corporation, 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.

IN THE MATTER OF

C. F. BUELOW COMPANY, ET AL.

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

Docket 7154. Complaint, May 26, 1958—Decision, Nov. 19, 1958

Consent order requiring brokers in Seattle, Wash., of sea food products, including canned salmon, to cease violating the brokerage section of the Clayton Act by making allowances or rebates in lieu of brokerage to certain buyers, a part or all of which was not charged back to the packer-principals but was taken from respondents' brokerage earnings.

COMPLAINT

The Federal Trade Commission, having reason to believe that the parties respondent named in the caption hereof, and hereinafter more particularly designated and described, have been and are now violating the provisions of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C., Title 15, Sec 13), hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. The respondent C. F. Buelow Company, hereinafter sometimes referred to as corporate respondent, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Washington with its principal office and place of business located at Room 1701 Smith Tower Building, Seattle, Wash.

Respondent Carrol F. Buelow is an individual and is president of the corporate respondent, and owns substantially all of its capital stock. As president and substantial owner, he formulates, directs and controls the acts, practices, and policies of the said corporate respondent, including its sales and distribution policies.

PAR. 2. Respondents, both corporate and individual, are now and for the past several years have been engaged in the business of selling and distributing seafood products, including canned salmon, all of which are hereinafter sometimes referred to as seafood products, and distribute as primary brokers, negotiating sales for the account of a number of their packer-principals.

PAR. 3. Respondents sell and distribute their seafood products generally through field brokers located throughout the United States. Respondents have, directly or indirectly, shipped or

transported, or caused said seafood products, when sold, to be shipped or transported from the canning plants or warehouses of their packer-principals to buyers located in various states of the United States other than the state or territory of origin of such seafood products. Thus respondents, both corporate and individual, are now and for the past several years have been engaged in a continuous course of trade in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended.

PAR. 4. Respondents, both corporate and individual, are usually compensated for their services in arranging for the sale and distribution of such food products by deducting a brokerage fee or commission of 5 percent of the net selling price from the proceeds in their account of sales to their packer-principals. When field brokers are utilized in making the sale, they are usually compensated for their services by receiving from respondents, as primary brokers, a brokerage fee or commission in the amount of 2½ percent of the net selling price of the merchandise sold.

PAR. 5. In the course and conduct of their business in commerce as primary brokers for various packer-principals respondents, both corporate and individual, have made grants, allowances, or rebates in substantial amounts in lieu of brokerage, or price concessions which reflect brokerage, to certain buyers of said seafood products, a part or all of which were not charged back to their various packer-principals but, on the contrary, were taken from the brokerage earnings of respondents. In some instances these allowances, rebates, or price concessions made to buyers were shared by the primary and the field broker out of their brokerage earnings on the particular transactions.

Among and including, but not necessarily limited to the methods or means employed by respondents in so doing are the following:

(a) Selling to certain buyers at net prices which were less than the amount accounted for to their packer-principals.

(b) Granting to certain buyers deductions from prices, by way of allowances or rebates, a part or all of which were not charged back to their packer-principals.

(c) Taking reduced brokerage on sales which involved price concessions to certain buyers.

PAR. 6. The acts and practices of respondents, both corporate and individual, as hereinabove alleged and described, constitute violations of the provisions of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Sec. 13).

Mr. Cecil G. Miles and *Mr. John J. McNally* for the Commission.

Moriarty, Olson & Campbell by *Mr. Richard T. Olson,* of Seattle, Wash., for respondents.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on May 26, 1958, charging respondents with making grants, allowances, or rebates in lieu of brokerage, or price concessions which reflect brokerage, to certain buyers of the seafood products, including canned salmon, which respondents sell and distribute as primary brokers for a number of packer-principals; a part or all of which grants, allowances, rebates or price concessions were taken from the brokerage earnings of respondents, and in some instances shared by the primary and the field broker out of their brokerage earnings, in violation of §2(c) of the Clayton Act as amended (U.S.C. Title 15, § 13).

Thereafter, on September 3, 1958, respondents, their counsel, and counsel supporting the complaint entered into an Agreement Containing Consent Order to Cease and Desist, which was approved by the director and an assistant director of the Commission's Bureau of Litigation, and thereafter submitted to the hearing examiner for consideration.

The agreement identifies Respondent C. F. Buelow Company as a Washington corporation, with its office and principal place of business located at 1701 Smith Tower Building, Seattle, Wash., and respondent Carrol F. Buelow as an individual and president of the corporate respondent, and having the same address as the corporate respondent.

Respondents admit all the jurisdictional facts alleged in the complaint, and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

Respondents waive any further procedure before the hearing examiner and the Commission; the making of findings of fact and conclusions of law; and all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement. All parties agree that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the order to cease and desist, as contained in the agreement, when it shall have become a part of the decision of the Commission, shall have the same force and effect as if

entered after a full hearing, and may be altered, modified or set aside in the manner provided for other orders; that the complaint herein may be used in construing the terms of said order; and that the agreement is for settlement purposes only, and does not constitute an admission by the respondents that they have violated the law as alleged in the complaint.

After consideration of the allegations of the complaint and the provisions of the agreement and the proposed order, the hearing examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding. Accordingly, in consonance with the terms of the aforesaid agreement, the hearing examiner accepts the Agreement Containing Consent Order to Cease and Desist; finds that the Commission has jurisdiction over the respondents and over their acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

It is ordered, That Respondent C. F. Buelow Company, a corporation, and its officers, and Carrol F. Buelow, individually and as an officer of said corporate respondent, and respondents' representatives, agents, or employees, directly or through any corporate or other device in connection with the sale of seafood products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Paying, granting, or passing on, either directly or indirectly, to any buyer or to anyone acting for or in behalf of or subject to the direct or indirect control of such buyer, brokerage earned or received by respondents on sales made for their packer-principals by allowing to the buyers lower prices which reflect all or any part of such brokerage, or by granting them allowances or rebates which are in lieu of such brokerage, or by any other method or means.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 19th day of November 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondents C. F. Buelow Company, a corporation, and Carrol F. Buelow, individually and as an

officer of said corporation, 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.

IN THE MATTER OF

LLOYD'S FURS, INC., ET AL.

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

Docket 7185. Complaint, July 11, 1958—Decision, Nov. 19, 1958

Consent order requiring two associated furriers in Denver, Colo., to cease violating the Fur Products Labeling Act by invoicing and labeling irregularities and by advertising in newspapers and otherwise which falsely represented fur sales as "Liquidation" and "going out of business" sales.

Mr. Thomas A. Ziebarth for the Commission.

Mr. Louis G. Isaacson and *Mr. Jay E. Lutz*, of Denver, Colo., for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges respondents with misbranding and with falsely and deceptively invoicing and advertising certain of their fur products, in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, and of the Federal Trade Commission Act.

After the issuance of the complaint, all respondents except Anne T. Kaye, their counsel, and counsel supporting the complaint entered into an agreement containing consent order to cease and desist, which was approved by the director and an assistant director of the Commission's Bureau of Litigation, and thereafter transmitted to the hearing examiner for consideration.

The agreement states that respondents Lloyd's Furs, Inc., and Chevron Furs, Inc., are corporations organized and existing under and by virtue of the laws of the State of Colorado, and that Lloyd's Furs, Inc., maintains its offices and principal place of business at 1660 Broadway, Denver, Colo.

The agreement also states that individual respondents Richard I. Kaye and Anne T. Kaye are officers of said Lloyd's Furs, Inc.; that individual respondent Richard I. Kaye is an officer of said Chevron Furs, Inc.; that the address of the individual respondents is the same as that of the corporate respondents; and that corporate respondent Chevron Furs, Inc., did business under the names Miller Furs and Miller Fur Company.

All parties agree that, inasmuch as individual respondent Richard I. Kaye is president of corporate respondent Lloyd's Furs,

Inc., and solely responsible for the formulation, direction and control of the practices of said corporation, while individual respondent Anne T. Kaye is only a nominal officer thereof and at no time formulates, directs or controls any of the practices thereof, the complaint herein should be dismissed insofar as it relates to individual respondent Anne T. Kaye.

The agreement provides, among other things, that respondents signatory thereto admit all the jurisdictional facts alleged in the complaint, and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement; that the agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission; that the complaint may be used in construing the terms of the order agreed upon, which may be altered, modified or set aside in the manner provided for other orders; that the agreement is for settlement purposes only and does not constitute an admission by respondents signatory thereto that they have violated the law as alleged in the complaint; and that the order set forth in the agreement and hereinafter included in this decision shall have the same force and effect as if entered after a full hearing.

Respondents signatory to the agreement waive any further procedural steps before the hearing examiner and the Commission, the making of findings of fact or conclusions of law, and all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement.

The order agreed upon fully disposes of all the issues raised in the complaint, and adequately prohibits the acts and practices charged therein as being in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, and of the Federal Trade Commission Act. Accordingly, the hearing examiner finds this proceeding to be in the public interest, and accepts the agreement containing consent order to cease and desist as part of the record upon which this decision is based. Therefore,

It is ordered, That respondent Lloyd's Furs, Inc., a corporation, and its officers, and Richard I. Kaye, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in

connection with the introduction into commerce or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of fur products, or in connection with the sale, advertising, offering for sale, transportation, or distribution of fur products which have been made in whole or in part of fur which has been shipped and received in commerce, as "commerce," "fur," and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by:

1. Failing to affix labels to fur products showing:

(a) The name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations;

(b) That the fur product contains or is composed of used fur, when such is the fact;

(c) That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;

(d) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;

(e) The name or other identification issued and registered by the Commission of one or more persons who manufactured such fur product for introduction into commerce, introduced it into commerce, sold it in commerce, advertised or offered it for sale in commerce, or transported or distributed it in commerce;

(f) The name of the country of origin of any imported furs contained in the fur product;

2. Setting forth on labels affixed to fur products:

(a) Information required under §4(2) of the Fur Products Labeling Act and the Rules and Regulations thereunder mingled with nonrequired information;

(b) Information required under §4(2) of the Fur Products Labeling Act and the Rules and Regulations thereunder in handwriting;

3. Failing to affix labels to fur products that comply with the minimum size requirements of one and three-quarter inches by two and three-quarter inches;

4. Failing to affix labels to fur products in a conspicuous manner;

B. Falsely or deceptively invoicing fur products by:

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

(a) The name or names of the animal or animals producing the fur or furs contained in the fur products as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations;

(b) That the fur product contains or is composed of used fur, when such is the fact;

(c) That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;

(d) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;

(e) The name and address of the person issuing such invoice;

(f) The name of the country of origin of any imported fur contained in a fur product;

2. Abbreviating information required under §5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations thereunder.

It is further ordered, That respondents Lloyd's Furs, Inc., a corporation, and its officers, and Richard I. Kaye, individually and as an officer of said corporation; Chevron Furs, Inc., a corporation, and its officers, and Richard I. Kaye, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of fur products, or in connection with the sale, advertising, offering for sale, transportation or distribution of fur products which have been made in whole or in part of fur which has been shipped and received in commerce, as "commerce," "fur," and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

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

1. Represents, directly or by implication, that any fur product offered for sale is from the stock of a business in a state of

liquidation or that respondents are offering for sale the stock of a concern that is going out of business, unless such is the fact;

2. Represents, directly or by implication, that fur products offered for sale are from the stock of an old, established business, unless such is the fact.

It is further ordered, That the complaint herein, insofar as it relates to individual respondent, Anne T. Kaye, be, and the same hereby is, dismissed.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 19th day of November 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Lloyd's Furs, Inc., a corporation; Chevron Furs, Inc., a corporation; and Richard I. Kaye, individually and as an officer of said corporate 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.

Decision

IN THE MATTER OF

BANTAM BOOKS, INC.

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

Docket 6802. Complaint, May 16, 1957—Decision, Nov. 24, 1958

Order requiring a distributor of books in New York City to make adequate disclosure on the front cover and title page when parts of the original text of reprints had been deleted and when new titles were substituted for the original titles of reprinted books.

Mr. John W. Brookfield, Jr., for the Commission.

Weil, Gotshal & Manges, by *Mr. Horace S. Manges*, of New York, N.Y., for respondent.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges that respondent has violated the Federal Trade Commission Act by failing to disclose, or disclose adequately, that certain of the books which it publishes and distributes in commerce are abridgments and that changes of title have been made in others. It is alleged that such failure "has had, and now has, the tendency and capacity to lead a substantial portion of the purchasing public into the mistaken and erroneous belief that said books are complete and unabridged, or are new and original publications." Respondent has denied all the allegations of the complaint except those pertaining to corporate organization and business activities in selling and distributing books in commerce.

Hearings were held at which evidence in support of and in opposition to the allegations of the complaint was received, duly recorded and filed. At the close of the case-in-chief in support of the complaint, respondent filed a motion to dismiss for lack of evidence sufficient to establish a *prima facie* case, which motion was denied. At the completion of the reception of evidence, proposed findings of fact and conclusions were filed and have been ruled upon in a separate document.

Upon the entire record, the following findings and conclusions are made:

1. Bantam Books, Inc., is a corporation organized 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 25 West 45th Street, New York, N.Y.

2. Respondent is now and has been for more than two years last past engaged in the business of selling and distributing paper-backed books, and causing said books, when sold, to be transported from its place of business in the State of New York to purchasers thereof located in the various other states of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a substantial course of trade in said books, in commerce, as "commerce" is defined in the Federal Trade Commission Act. Respondent published books under 128 different titles in 1955; 143 during 1956; and 52 between January 1 and April 30, 1957.

3. In the course and conduct of its business, respondent has been and is in substantial competition with other corporations and with individuals, partnerships and others engaged in the same business.

4. Some of the books sold and distributed by respondent are abridgments—reprints of books from which portions of the original text have been shortened by paraphrasing, or omitted. Seven such were published in 1955; seven in 1956; none during the first four months of 1957. The fourteen such books published in 1955 and 1956 are in the record as exhibits. Among them are the following:

(a) The Kill

Occupying most of the right upper one-third of the front cover, on a bluish-gray background, appears the following:

By the author of "NANA"
EMILE ZOLA
A penetrating study of a
beautiful and recklessly sensual
woman, in the money-mad
world of 19th Century Paris.

Below this, just above the middle of the page and extending across its width, is the title

The
KILL ("Kill" in ¾" type; the I in yellow, other letters red).

Just below the middle is a picture of a thinly clad woman and man in recumbent pose. At the lower left near the bottom of the cover, in $\frac{3}{32}$" black type, are the words "NEW ABRIDGED EDITION." The fact of abridgment is not mentioned elsewhere.

The title page shows only that the book was translated from the French "La Curée."

(b) The Nine Wrong Answers

Across the right upper corner of the front cover, in two lines, are the words:

> The most baffling mystery . . .
> The most agonizing suspense . . . ,

followed by the name of the author; to the right and above the middle of the cover is the title,

THE	(½" letters,
NINE	red on yellow,
WRONG	one word to a
ANSWERS	line).

At the lower right of the cover is pictured a girl sitting on the edge of a bed; at the left side, extending from the bottom well above the middle of the cover, is pictured a hand and revolver muzzle, in dark colors; at the lower left corner, in $\frac{3}{32}$" red letters not too distinctly displayed upon a background partly yellow and partly black, are the words "NEW ABRIDGED EDITION." There is no other indication on the title page or elsewhere that the publication is an abridgment.

(c) The Time of the Gringo

At the top of the front cover page, in five lines of heavy black type, appear the words:

> Splendor and violence,
> passion and betrayal—
> a great novel of the
> last days of Spanish rule
> in the Southwest;

across the middle of the cover in two lines of large white type upon a reddish and dark background is the title; across the bottom, less distinctly displayed than any other copy on the cover, in small white type on a mottled brown-and-whitish background, are the words "NEW EDITION, AUTHORIZED ABRIDGMENT." There is no indication elsewhere that the book is abridged.

The first page inside the cover is filled with newspaper comment. At the top in large letters, quoted from the San Francisco Chronicle, is the expression "Marvelously Full and Brilliant Panorama." Immediately below this, quoted from the Boston Herald, is the following:

> The Time of the Gringo is a big book in size, scope and significance, exciting, full bodied and intensely interesting . . .

The seeming purport of these quotations is that the text is in full, rather than abridged.

(d) The Autobiography of Benvenuto Cellini

Upon a mottled background the title appears in large white letters across the top of the front cover in three lines; the middle of the cover depicts a striking painting; across the bottom at the lower right, in small but reasonably legible white type, is the inscription "new abridged edition." The fact of abridgment is not elsewhere noted.

(e) The Count of Monte Cristo

The background of the cover page appears to be a painting or picture of the Count; the title is prominently displayed on the lower half of the cover in large white letters upon a dark background; just below the title in yellow, easily legible letters are the words, "A New Translation by Lowell Bair." No indication is to be found on the cover, the title page, or elsewhere, that the text of the original publication has been condensed or abridged, yet the evidence clearly shows that to be the fact.

5. Many of the books sold and distributed by respondent carry titles different from those under which they were originally published. Eight such were published in 1955, fifteen in 1956, and four during the first four months of 1957. Of the more than twenty-five such books presented in evidence in this proceeding, those listed below are typically representative of the practice about which complaint is made in this proceeding.

(a) Rag Top

In the left middle part of the front cover, in white letters more than one inch in height upon a dark background, the title is displayed in two conspicuous lines; across the top of the cover in ¼" letters is the author's name; immediately below the title appears a five-line descriptive characterization of the book; across the bottom on a gray background in small yellow letters of uniform size, which add to its inconspicuousness, appears the phrase, "PUBLISHED AS THE CUP OF FURY BY RANDOM HOUSE." On the title page "RAG TOP" again appears in large letters, with "THE CUP OF FURY" in parentheses below. On the reverse of this title page there is in small type the statement, "Originally published by Random House, Inc. under the title The Cup of Fury."

(b) Time-X

The author, title and descriptive blurb are centered on the cover, clearly and readily perceptible; inconspicuously, at the very bottom, in quite small type, is the statement "Published as The Science Fiction Sub-Treasury by Rinehart & Company, Inc." The title page, clearly in sizeable type well centered, shows, "TIME-X Originally published under the title THE SCIENCE-FICTION SUBTREASURY."

(c) Man From Tomorrow

The title appears in letters more than 3/8" high across the middle of the front cover, the three words being in contrasting colors—red, white and yellow, upon a blue and grayish background; then follows the name of the author, nine lines of descriptive material, and across the bottom in small type, some of which is practically indistinguishable because of a blurring background, is the statement "Published as WILD TALENT by Rinehart & Company, Inc." Centered on the title page, the fact that the book was originally published under the title "Wild Talent" is shown; on the reverse side of the title page, it is shown again in very small type.

(d) Woman Doctor

At the lower right corner of the front cover, in small indistinct type, in washed-out, inconspicuous blue upon a red background, is the phrase "Published as Women Will Be Doctors by Random House, Inc." In distracting clearness just above this phrase are the words "Complete and Unabridged." The title page shows that the book was "Originally published under the title Women Will Be Doctors."

(e) The Shipwrecked

Across the very bottom of the front cover, in reasonably distinct but small type, appear the words, "Published as England Made Me by Doubleday & Co., Inc."; the title page shows nothing as to change of title, but on the reverse side of the title page, under "Printing History," appears in very small type the statement "Doubleday edition published under title England Made Me September 1935"; further down on this page, in slightly larger type, is the statement "Copyright, 1935, by Graham Greene under the title England Made Me" (in the last two instances the underscoring indicates use of italics).

6. Forty-one of respondent's paper-backed books are in the record as exhibits. One of these, "The Green Cockade," not previously discussed, was originally published as "Catch A Falling

Star," and is an abridgment. The fact that the book was published under a different title is indicated on the front cover and on both front and back of the title page; the fact of abridgment is referred to only on the front cover. This typifies respondent's practice. Practically without exception, change of title is specifically noted or indicated on the front cover and on the title page; while abridgment is noted only on the front cover.

As previously pointed out, front-cover disclosures were frequently indistinct due to smallness of type, lack of variance in size of type, inept selection of location on the page and through use of colors affording little contrast with the background against which they appeared. Title-page disclosures were often in very small type. Often the disclosures indicate lack of a sincere effort to make the facts as to change of title or abridgment known to the prospective purchaser.

7. Respondent presented an expert in the field of social and applied psychology who had developed, for university use, a first course on the application of psychology to marketing problems and situations, and is a consultant on matters relating to visual communication. His experience included direction of a research program to determine the best way for car cards to communicate what they were supposed to convey to those who read them, including the problem of placing text and picture in such relationship that the message would be most readily observed and read. He had supervised a study of the marketing of paperbound books, in connection with which determinations were made as to the readability of the material on front covers and as to the manner in which the average person seeking to buy such a book looks at it. He stated that a "great deal of relevant research" had been done in this and related areas. Based on this research material and his own experience, he had reached some definite conclusions on the subject involved in this proceeding.

8. He stated that the problem involves three different dimensions—first, position on the cover and what we know about how people perceive position on the printed page—second, factors other than position relevant to how people perceive a printed page—third, how a paper-bound book is physically perceived, handled and examined by a prospective purchaser. He said that the sequence in which the parts of a page of printed material of almost any kind are looked at by persons who know English, is, first, the part a little to the left of center, then the top, and then the bottom. Other factors involve (a) "legibility of the back-

ground in which the material occurs," (b) "contrast of the given type in the particular background," (c) any "illustration * * * which must be regarded as part of the background against which the printed material is read," (d) "the type face that is employed," (e) "length of the given line and the space available at either end of the printed line," (f) "spaces between lines," (g) "actual spaces between letters in a word and between words in a line," (h) "color contrast," (i) "size of type," (j) "the margins that are employed," and (k) "illumination under which the particular material is employed." These, he said, "pretty much summarize the kinds of things that must be considered in determining the extent to which a given legend or a given statement or a given collection of printed materials will be visible on a book cover of any kind."

9. As to the manner in which paper-bound books are actually read or looked at by prospective purchasers, he said his own research [1] disclosed that the time a prospective purchaser is in physical or visual contact with the paper-bound book which he may subsequently purchase ranges from one minute to ten minutes, averaging approximately four minutes; that the prospective purchaser spends most of his time looking at the cover—"will look * * * at the center of the page where he generally expects to find the title * * * for some phrase or combination of words or title that is familiar to him," the title being more important than whatever illustration may be on the cover; that he will then look at the top of the page for the author, then will look at the bottom; most persons will "riffle through the pages," some look at the table of contents, date of publication, depending upon their reading habits. The rear cover does not appear to be very important. It is looked at occasionally.

10. This expert witness was handed many of the books in evidence, particularly those hereinabove commented on in paragraphs 4 and 5, and, in response to questions by respondent's counsel, stated that in his opinion the legends on the cover pages as to change of title and abridgment "would readily attract the attention of a prospective purchaser."

11. Applying the criteria delineated by the witness, his opin-

[1] This research involved interviews with selected samples of the population. Of 5,600 interviews, 1,413 contained statements about paper-bound books; 724 of these were men, 689 women, divided geographically among Rochester, Boston and New York, respectively, as follows: 267, 394 and 752. Their reading of paper-bound books varied from one to over 300 per person, per year.

ion does not appear to be justified and cannot be accepted. The more intelligent, more experienced, careful prospective buyer might well observe and comprehend the many legends, which are certainly not the sort that he who runs may read. But many buyers would not glean the fact that some of these books had previously been published under different titles, or were abridgments, and would therefore be deceived. The legends are practically all at the bottom of the page, the last part to be looked at; they are in small type, frequently of uniform size and spacing, the use of upper and lower case being avoided; in many cases the legend is printed in a color which blends rather than contrasts with the background upon which it is placed; legibility is often poor. A random examination of some of the books not hereinbefore specifically mentioned confirms these facts. For example—"Star Shine" bears the legend "Published as Angels and Spaceships by E. P. Dalton & Company, Inc.," in white type upon a background of various shades of blue, yellow and green upon a page which presents in striking clarity the title, authorship, and other information about the book; "The Long Swords," "The Tough Die Hard" and "Death's Long Shadow" present like situations.

"A Cry In The Night" has the legend in small-type caps, uniformly spaced across the bottom, "PUBLISHED AS ALL THROUGH THE NIGHT BY DODD, MEAD & CO.," unattractive and readily passed over; of similar nature is the disclosure on "The Royalist" that it had been previously published as "The Hastening Wind." In very few instances can the disclosure of abridgment or change of title be found to be clearly and conspicuously displayed.

12. The Commission's policy is clear, having been established in the matter of *The New American Library of World Literature, Inc., et al.*, Federal Trade Commission Docket 5811; original Commission decision 49 F.T.C. 760; decision of Second Circuit Court of Appeals remanding the case for modification of the order to cease and desist, 213 F.2d 143; modified order of the Commission issued January 13, 1955, approved and affirmed by the Second Circuit November 25, 1955, 227 F.2d 384. The Commission found:

> The offering of a book for sale constitutes an implicit representation that the book contains the entire original text and that the title under which it is offered is the original title. In the absence of a clear and conspicuous disclosure of the fact of abridgment or change of title, the offering of an

abridged book or of an old book under a new title unquestionably has the capacity and tendency to deceive and mislead prospective purchasers.

In that case disclosure was made on the covers of respondents' books, and almost without exception on the copyright page, the title page, or elsewhere, in small type. Such disclosure was found to be wholly inadequate, the Commission declaring that two poor disclosures do not add up to one good one.

13. The facts in this proceeding are less favorable to respondent than were the facts in the *New American Library* case.[2] In one instance at least—"The Count of Monte Cristo"—the fact of abridgment is not disclosed at all, the legend relating only to a new translation; in numerous other instances, the notation as to abridgment appeared only on the cover, not on the title page; the legends as to change of title were inconspicuous. Upon the whole record, it must be concluded that respondent has not met the standards required under the Federal Trade Commission Act, and that the respondent has not adequately disclosed the fact that certain of its published books are abridgments of the original publications and that certain of its other books are reprints of books originally or previously published under different titles than those used by respondent.

CONCLUSIONS

14. The failure of respondent to make adequate disclosure that certain of its books are abridgments, and that books to which it has given new titles are not different from the books of which they are reprints, has had, and now has, the tendency and capacity to lead a portion of the purchasing public into the mistaken and erroneous belief that said books are complete and unabridged, or are new and original publications, and to induce a substantial portion of said public to purchase respondent's said books because of said erroneous and mistaken belief. As a result thereof, trade has been and is unfairly diverted from respondent's competitors, and substantial injury has been and is being done.

15. The aforesaid acts and practices of respondent are all to the prejudice and injury of the public and of respondent's competitors, and constitute unfair and deceptive acts and practices and unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act. This proceeding is in the public interest. Therefore,

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[2] See also *Hillman Periodicals* v. *F.T.C.*, 174 F.2d 123; and recent F.T.C. orders in the Matters of *A. A. Wynn, Inc., et al.*, Docket 6792, and *Dell Publishing Co.*, Docket 6759.

It is ordered, That respondent Bantam Books, Inc., 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 and distribution of books in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Offering for sale or selling any abridged copy of a book unless one of the following words, "abridged," "abridgment," "condensed" or "condensation," or some other word or phrase stating with equal clarity that said book is abridged, appears in clear, conspicuous type upon the front cover and upon the title page of the book, either in immediate connection with the title or in another position adapted readily to attract the attention of a prospective purchaser;

2. Using or substituting a new title for, or in place of, the original title of a reprinted book unless a statement which reveals the original title of the book and that it has been previously published thereunder appears in clear and conspicuous type upon the front cover and upon the title page of the book, either in immediate connection with the title or in another position adapted readily to attract the attention of a prospective purchaser.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

This matter having been heard on the respondent's appeal from the hearing examiner's initial decision; and

The Commission having considered the entire record, including the briefs of counsel (oral argument not having been requested), and having concluded that the initial decision is correct and appropriate in all respects to dispose of the proceeding:

It is ordered, That the respondent's appeal be, and it hereby is, denied.

It is further ordered, That the hearing examiner's initial decision, filed July 25, 1958, be, and it hereby is, adopted as the decision of the Commission.

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

IN THE MATTER OF

BLOCK'S, INC., ET AL.

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

Docket 7242. Complaint, Aug. 28, 1958—Decision, Nov. 25, 1958

Consent order requiring furriers in Syracuse, N.Y., to cease violating the Fur Products Labeling Act by using fictitiously high prices as regular prices in newspaper advertisements and on labels and representing sale prices as reduced therefrom, and representing falsely in advertising that furs were on sale at "½ price" and "Now up to 60% off."

S. F. House, Esq., for the Commission.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

The complaint in this proceeding, issued August 28, 1958, charges the respondents Block's, Inc., a corporation, and George S. Block, individually and as an officer of the corporate respondent with violation of the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act and the Rules and Regulations promulgated under the last-named Act, in connection with introduction into commerce, and in the sale, advertising and offering for sale, transportation and distribution, shipping and receiving in commerce, of fur and fur products, as the designations "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act.

After the issuance of said complaint respondents on September 22, 1958, entered into an agreement for a consent order with counsel in support of the complaint, disposing of all of the issues in this proceeding, which agreement was duly approved by the director and assistant director of the Bureau of Litigation of the Federal Trade Commission. It was expressly provided in said agreement that the signing thereof is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

By the terms of said agreement, the respondents admitted all of the jurisdictional allegations of the complaint and agreed that the record herein may be taken as though the Commission had made findings of jurisdictional facts in accordance with such allegations. By said agreement the parties expressly waived a hearing before the hearing examiner or the Commission, the

making of findings of fact or conclusions of law by the hearing examiner or the Commission, the filing of exceptions and oral argument before the Commission, and all further and other procedure before the hearing examiner and the Commission to which the respondents may otherwise be entitled under the Federal Trade Commission Act or the Rules of Practice of the Commission.

By said agreement, respondents further agreed that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as though made after a full hearing, presentation of evidence and findings and conclusions thereon, and specifically waived any and all right, power or privilege to challenge or contest the validity of such order.

It was further provided that said agreement, together with the complaint, shall constitute the entire record herein; that the complaint herein may be used in construing the terms of the order issued pursuant to said agreement; and that the said order may be altered, modified or set aside in the manner provided for other orders of the Commission.

Said agreement recites that respondent Block's, 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 466 South Warren Street, Syracuse, N.Y., and that the individual respondent George S. Block is president of said corporate respondent and formulates, controls and directs the acts, practices and policies of the corporate respondent, with his address the same as that of said corporate respondent.

The hearing examiner has considered such agreement and the order therein contained, and, it appearing that said agreement and order provides for an appropriate disposition of this proceeding, the same is hereby accepted and, without further notice to respondents, is ordered filed upon becoming part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the Rules of Practice, and in consonance with the terms of said agreement, the hearing examiner finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents named herein, and that this proceeding is in the interest of the public, wherefore he issues the following order:

ORDER

It is ordered, That Block's, Inc., a corporation, and its officers, and George S. Block, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising, offering for sale, transportation or distribution of fur products in commerce, or in connection with the sale, advertising, offering for sale, transportation, or distribution of fur products which have been made in whole or in part of fur which has been shipped and received in commerce, as "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Misbranding fur products by:

(a) Representing on labels affixed to the fur products, or in any other manner, that certain amounts are their regular and usual prices, when such amounts are in excess of the prices at which respondents have usually and customarily sold such products, in the recent and regular course of their business.

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

(a) Represents, directly or by implication, that the regular or usual price of any fur product is any amount which is in excess of the price at which respondents have usually and customarily sold such product in the recent and regular course of their business.

(b) Represents, directly or by implication, through percentage savings claims, that the regular or usual retail prices charged by respondents for fur products in the recent and regular course of their business are reduced in direct proportion to the amount of savings stated, when contrary to fact.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 25th day of November 1958, become the decision of the Commission; and, accordingly:

It is 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 the order to cease and desist.

Decision

IN THE MATTER OF

PACIFIC NORTHERN AIR COLLEGE, INC., ET AL.

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

Docket 7182. Complaint, July 11, 1958—Decision, Nov. 27, 1958

Consent order requiring a Seattle, Wash., seller of a correspondence and residence course in "Specialized Airlines Training" to cease advertising falsely in newspapers that it was offering jobs, and making a variety of other false claims concerning job opportunities and salaries for graduates, and the employment assistance and caliber of training it provided; and to cease using the word "college" in its trade name and describing its salesmen as "registrars."

Mr. John J. McNally and *Mr. Ames W. Williams* for the Commission.

Mr. Frank C. Trunk, of Seattle, Wash., for respondents.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) on July 11, 1958, issued its complaint herein, charging the above-named respondents with having violated the provisions of the Federal Trade Commission Act, and the respondents were duly served with process.

On October 1, 1958, there was submitted to the undersigned hearing examiner of the Commission for his consideration and approval an "Agreement Containing Consent Order to Cease and Desist," which had been entered into by and between respondents and the attorneys for both parties, under date of September 24, 1958, subject to the approval of the Bureau of Litigation of the Commission, which had subsequently duly approved the same.

On due consideration of such agreement, the hearing examiner finds that said agreement, both in form and in content, is in accord with §3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, and that by said agreement the parties have specifically agreed to the following matters:

1. Respondent Pacific Northern Air College, Inc., is a corporation organized and doing business under the laws of the State of Washington. Respondents Lee Thompson and Peggy Christian Thompson are individuals and are officers of corporate respondent. The principal office and place of business of said corporate

and individual respondents in 317 Wall Street, in the City of Seattle, State of Washington.

2. Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on July 11, 1958, issued its complaint in this proceeding, against respondents, and a true copy was thereafter duly served on respondents.

3. Respondents admit all of the jurisdictional facts alleged in the complaint and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

4. This agreement disposes of all of this proceeding as to all parties.

5. Respondents waive:

(a) Any further procedural steps before the hearing examiner and the Commission;

(b) The making of findings of fact or conclusions of law; and

(c) All of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement.

6. The record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement.

7. This agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission.

8. This agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

9. The following order to cease and desist may be entered in this proceeding by the Commission without further notice to respondents. When so entered it shall have the same force and effect as if entered after a full hearing. It may be altered, modified or set aside in the manner provided for other orders. The complaint may be used in construing the terms of the order.

Upon due consideration of the complaint filed herein and the said "Agreement Containing Consent Order to Cease and Desist," the latter is hereby approved, accepted and ordered filed. The hearing examiner finds from the complaint and the said "Agreement Containing Consent Order to Cease and Desist" that the Commission has jurisdiction of the subject matter of this proceeding and of the persons of each of the respondents herein;

that the complaint states a legal cause for complaint under the Federal Trade Commission Act, against each of the respondents both generally and in each of the particulars alleged therein; that this proceeding is in the interest of the public; that the following order as proposed in said agreement is appropriate for the just disposition of all of the issues in this proceeding as to all of the parties hereto; and that said order therefore should be, and hereby is, entered as follows:

ORDER

It is ordered, That respondents Pacific Northern Air College, Inc., a corporation, and its officers, and Lee Thompson and Peggy Christian Thompson, as individuals and as officers of said corporation, and respondents' representatives, agents and employees, directly, or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of courses of study or instruction, do forthwith cease and desist from:

1. Representing, directly or by implication:

(a) That employment is being offered when, in fact, the purpose is to obtain purchasers of such courses of study or instruction;

(b) That positions are open or will be available to those who complete such courses, unless such is the fact;

(c) That persons who complete such courses are thereby qualified for employment by commercial airlines;

(d) That the great majority of graduates of respondents' courses have been employed by commercial airlines by virtue of completing such courses or otherwise misrepresenting the actual number of graduates who have been so employed;

(e) That respondents provide a placement service to the extent that any significant number of graduates of such courses are placed in positions with commercial airlines by respondents;

(f) That 17-year-old persons are ordinarily employed by commercial airlines, or otherwise misrepresenting the ages at which persons are ordinarily so employed;

(g) That there is a great demand for graduates of respondents' schools or courses, or otherwise misrepresenting the demand for such graduates;

(h) That such courses are sold only to selected persons;

(i) That part time employment assuring sufficient remunera-

tion to defray living expenses is secured by respondents for students while attending their residence school;

(j) That respondents' school is adequately equipped to teach the subjects covered by such courses of instruction;

(k) That respondents' school is connected or affiliated with commercial airlines;

(l) That the starting salaries for the positions covered by such courses are from $260 to $300 a month, or otherwise misrepresenting the starting salary for any position so covered;

(m) That on-the-job training with airlines or at airports would constitute part of residence school training or is otherwise available to respondents' students;

2. Using the word "college," or any other word of similar meaning either alone or in conjunction with other words as a part of their corporate name or representing in any manner that the corporate respondent constitutes a college or school of higher learning;

3. Using the word "Registrars" in designating or referring to respondents' salesmen.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OE COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 27th day of November 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondents, as named in the caption hereof, 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.

IN THE MATTER OF

AMERICAN TELEVISION, INC., ET AL.

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

Docket 6724. Complaint, Feb. 11, 1957—Decision, Nov. 28, 1958

Order dismissing without prejudice complaint charging two affiliated sellers in Chicago with using bait advertising and other misrepresentations to sell television sets, for the reason that all assets of the companies had been sold under the direction of the bankruptcy court and their charters dissolved.

Mr. Edward F. Downs and *Mr. Garland S. Ferguson* for the Commission.

Mr. Michael Gesas, of Chicago, Ill., for American Television, Inc.

Mr. I. Harvey Levinson, of Chicago, Ill., for deForest-Sanabria Corporation, U. A. Sanabria, and Helen G. Sanabria.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

On February 11, 1957, the Federal Trade Commission issued its complaint in the above entitled and numbered proceeding, alleging that American Television, Inc., a corporation, deForest-Sanabria Corporation, a corporation, U. A. Sanabria and Helen G. Sanabria, individually and as officers of said corporations, hereinafter called respondents, had violated the provisions of the Federal Trade Commission Act by the use of bait advertising and other deceptive claims to sell their television sets.

After service of the complaint, counsel for each of the respondents have, from time to time, filed motions requesting extension of time to answer the complaint and postponement of the initial hearing on the ground that the respondent American Television, Inc. was a debtor in a bankruptcy proceeding, No. 56–B–2089, then pending in the United States District Court for the Northern District of Illinois, Eastern Division, seeking an adjustment with creditors under Chapter 11 of the Bankruptcy Act. Said motions were granted.

Counsel for the respondents U. A. Sanabria and Helen G. Sanabria have filed a motion, supported by the affidavit of respondent U. A. Sanabria, requesting that the complaint be dismissed without prejudice on the ground that, *inter alia,* all of the assets

of American and deForest have been sold under the direction of the Bankruptcy Court, neither of said corporations now doing business, the charters of both corporations having been dissolved by appropriate authority of the State of Illinois, their state of incorporation; that at no time was the respondent Helen G. Sanabria an officer of deForest, that neither she nor her husband U. A. Sanabria have acquired any of the assets of said corporations at such bankruptcy sales; and that, although the respondent Helen G. Sanabria was secretary of the respondent American Television, Inc. before its adjudication as a bankrupt, her sole and only purpose in serving in such capacity was to authenticate corporate instruments executed by her husband U. A. Sanabria as president of such corporation.

Counsel supporting the complaint have answered said motion to dismiss, stating that they do not object to the dismissal of said complaint.

Upon consideration of said motion to dismiss, the affidavit in support thereof, and the answer filed thereto by counsel supporting the complaint, the hearing examiner is of the opinion that the motion to dismiss should be granted. Accordingly,

It is ordered, That the complaint herein be, and it hereby is, dismissed, without prejudice to the right of the Federal Trade Commission to take such further action in the future against the individual respondents U. A. and Helen G. Sanabria as the facts and circumstances may warrant.

DECISION OF THE COMMISSION

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 28th day of November 1958, become the decision of the Commission.

Decision

IN THE MATTER OF

CONCORD RADIO CORPORATION ET AL.

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

Docket 7097. Complaint, Mar. 27, 1958—Decision, Dec. 2, 1958

Consent order requiring two affiliated mail order distributors of electronic equipment in New York City to cease advertising falsely as "BRAND NEW" television and radio tubes which contained used envelopes or shells, and to make adequate disclosure on cartons, tubes, invoices, or shipping memoranda when such tubes were Government surplus or contained used parts.

Mr. Harold A. Kennedy and Mr. Thomas F. Howder for the Commission.

Trause, Saltzman, Lesser & Perlman, of New York, N.Y., by *Mr. Daniel D. Trause,* for respondents.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

The complaint in this proceeding issued March 27, 1958, charges the respondents with violation of the Federal Trade Commission Act in the sale and distribution of television and radio tubes, parts and other electronic equipment by mail order and otherwise.

Respondent Concord Radio Corporation is a corporation organized and existing under the laws of the State of New York with its office and place of business located at 45 Warren Street, New York, N. Y.

Respondent William Abramowitz, individually and as an officer of said corporation, maintains his office at the same address as the corporate respondent. Said individual respondent also does business under the name of Fay-Bill Distributing Co., a sole proprietorship, at 418 Broome Street, New York, N. Y.

Respondent Theodore Black, individually and as an officer of Concord Radio Corporation, had his office at the same address as the corporate respondent.

After the issuance of the complaint, said respondents entered into an agreement containing consent order to cease and desist with counsel in support of the complaint disposing of all the issues as to all parties in this proceeding, except the charges relating to the advertising of their products as "first quality" and the failure to disclose that some of their products are factory

seconds or rejects for the reason that on the basis of the now available evidence it appears that these charges cannot be sustained.

Attached to and made a part of said agreement was an affidavit of respondent Theodore Black to the effect that he was a former officer and director of said corporation, but severed his connection with said corporation in November 1957, having resigned as said officer and director, and since that time has had nothing to do with the formulation, direction or control of its policies, practices or acts. The agreement contemplates dismissal of the complaint as to respondent Theodore Black, and the term "respondents" as used hereinafter will not include this individual.

Said agreement was duly approved by the director and assistant director of the Bureau of Litigation.

It was expressly provided in said agreement that the signing thereof is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

By the terms of said agreement, the respondents admitted all the jurisdictional facts alleged in the complaint and agreed that the record herein may be taken as if the Commission had made findings of jurisdictional facts in accordance with the allegations.

By said agreement, the respondents expressly waived any further procedural steps before the hearing examiner and the Commission; the making of findings of fact or conclusions of law; and all the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement.

Respondents further agreed that the order to cease and desist, issued in accordance with said agreement, shall have the same force and effect as if made after a full hearing.

It was further provided that said agreement, together with the complaint, shall constitute the entire record herein; that the complaint herein may be used in construing the terms of the order issued pursuant to said agreement; and that said order may be altered, modified or set aside in the manner prescribed by the statute for orders of the Commission.

The hearing examiner has considered such agreement and the order therein contained, and, it appearing that said agreement and order provides for an appropriate disposition of this proceeding, the same is hereby accepted and is ordered filed upon

becoming part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the Rules of Practice, and, in consonance with the terms of said agreement, the hearing examiner finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents named herein, that this proceeding is in the interest of the public, and issues the following order:

ORDER

It is ordered, That Concord Radio Corporation, a corporation, and its officers, and William Abramowitz, individually and as an officer of said corporation, and as an individual doing business as Fay-Bill Distributing Co., or under any other name, and their agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of receiving tubes and cathode-ray or picture tubes 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 said products are new or brand new unless such is the fact;

2. Failing to disclose in advertising, on invoices or packing slips, on the cartons in which the products are packaged and on the products themselves that they are JAN, VT, or other government surplus, or that they contain a used part or parts when such is the fact.

It is further ordered, That the complaint herein be, and the same is, dismissed as to respondent Theodore Black and as to the charge relating to the sale of used and factory seconds or rejects as "first quality" tubes and the failure to reveal said fact.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 2d day of December 1958, become the decision of the Commission; and, accordingly:

It is ordered, That Concord Radio Corporation, a corporation, and William Abramowitz, individually and as an officer of said corporation and doing business as Fay-Bill Distributing Co., 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.

Decision

IN THE MATTER OF

ZOYSIA FARM NURSERIES, INC., ET AL.

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

Docket 7130. Complaint, Apr. 23, 1958—Decision, Dec. 2, 1958

Consent order requiring Baltimore mail order sellers to cease advertising falsely the rate of growth of their "Amazoy" and "Green Beauty" Zoysia grass, U.S. Government and Department of Agriculture approval of the grasses, endorsement by official experts as superior to other grasses, as providing a carefree lawn, requiring less watering or fertilization than other grasses, etc.

Mr. Frederick McManus and *Mr. Robert E. Vaughan,* for the Commission.

Gordon, Feinblatt & Rothman, by *Mr. Donald N. Rothman,* of Baltimore, Md. for respondents.

INITIAL DECISION BY FRANK HIER, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on April 23, 1958, issued and subsequently served its complaint in this proceeding against the above-named respondents.

On October 10, 1958, there was submitted to the undersigned hearing examiner an agreement between respondents Zoysia Farm Nurseries, Inc., Herbert L. Friedberg, Sidney M. Friedberg, Sylvia Friedberg Nachlas, and R. Stuart Armiger and counsel supporting the complaint providing for the entry of a consent order. By the terms of said agreement, respondents admit all the jurisdictional facts alleged in the complaint and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. By such agreement, respondents waive any further procedural steps before the hearing examiner and the Commission; waive the making of findings of fact and conclusions of law; and waive all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement. Such agreement further provides that it disposes of all of this proceeding as to all parties; that the record on which this initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement; that the latter shall not become a part of the official record unless

and until it becomes a part of the decision of the Commission; that the agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint; and that the following order to cease and desist may be entered in this proceeding by the Commission without further notice to respondents, and, when so entered it shall have the same force and effect as if entered after a full hearing, and may be altered, modified, or set aside in the manner provided for other orders; and that the complaint may be used in construing the terms of the order.

The hearing examiner having considered the agreement and proposed order, and being of the opinion that they provide an appropriate basis for settlement and disposition of this proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued.

1. Respondent Zoysia Farm Nurseries, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland with a main office and principal place of business located at 602 N. Howard Street, Baltimore, Md. Individual respondents Herbert L. Friedberg, Sidney M. Friedberg and Sylvia Friedberg Nachlas are officers and directors of said corporate respondent and R. Stuart Armiger is general manager of said corporation. These individuals formulate, direct and control the acts, practices and policies of said corporate respondent. Their business address is 610 N. Howard Street, Baltimore, Md.

Respondent Green Beauty Zoysia Company, a corporation formerly organized, existing and doing business under and by virtue of the laws of the State of Maryland with its main office and principal place of business located at 223-225 West Monument Street, Baltimore, Md., has since been merged into respondent Zoysia Farm Nurseries, Inc., as shown by copy of the articles of merger attached to such agreement.

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 Zoysia Farm Nurseries, Inc., a corporation, and its officers, Herbert L. Friedberg, Sidney M. Friedberg and Sylvia Friedberg Nachlas, individually and as officers of said corporation, and R. Stuart Armiger, individually

and as general manager of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in or in connection with the offering for sale, sale and distribution of their Zoysia grass under the names of Amazoy and Green Beauty or under any other name or names, 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:

(a) Their Amazoy grass has been approved by the United States Government.

(b) Tests by impartial public official experts have proved respondents' Amazoy to be superior to other lawn grass, unless such is the fact.

(c) Each plug of Amazoy multiplies itself fifty times in a few months or misrepresenting in any manner the rate of growth of Amazoy or Green Beauty grass.

(d) The United States Department of Agriculture recommends that only plugs be used for planting in existing lawns.

(e) Amazoy provides a carefree lawn or requires less watering or fertilization, unless clearly limited to Amazoy that has become well established.

(f) An Amazoy lawn is weed free unless clearly limited to summer weeds.

(g) Their Green Beauty grass has been proved by the United States Department of Agriculture to be clean, healthy and uncontaminated.

(h) Sprigs of Zoysia grass will produce a more satisfactory lawn than plugs.

2. Failing to clearly reveal that Amazoy and Green Beauty will not retain their green color during the period from the first killing frost until growth is resumed in the spring.

It is further ordered, that complaint be, and it hereby is, dismissed as to respondent Green Beauty Zoysia Company.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall on the 2d day of December, 1958, become the decision of the Commission; and, accordingly:

It is ordered, That the respondents Zoysia Farm Nurseries, Inc.,

a corporation, and Herbert L. Friedberg, Sidney M. Friedberg and Sylvia Friedberg Nachlas, individually and as officers of Zoysia Farm Nurseries, Inc., and R. Stuart Armiger, individually and as general manager of said corporation, 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.