

# FEDERAL TRADE COMMISSION DECISIONS

FINDINGS AND ORDERS, JULY 1, 1959, TO JUNE 30, 1960

IN THE MATTER OF

CHARLES F. GOMEZ TRADING AS  
WESTERN COACHING BUREAU ET AL.

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

*Docket 7238. Complaint, Aug. 21, 1958—Decisions, July 1 and 4, 1959*

Consent orders requiring the supplier and three distributors of a correspondence course on Civil Service preparation to cease representing falsely that they were connected with the U.S. Government and that persons completing the course were guaranteed Government jobs, and to cease misrepresenting the availability and salaries of Civil Service positions.

Before *Mr. Loren H. Laughlin*, hearing examiner.

*Mr. Berryman Davis* and *Mr. John J. McNally* for the Commission.

*Mr. John J. Taheny*, of San Francisco, Calif., for Charles F. Gomez and Marie Gomez; *Breed, Robinson & Stewart*, by *Mr. Ned Robinson*, of San Francisco, Calif., for James A. Sundstrom; and *Mr. Roy Huston*, of Milwaukee, Wisc., *pro se*.

INITIAL DECISION AS TO ALL RESPONDENTS EXCEPT RESPONDENT  
ROBERT J. GARTNER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) on August 21, 1958, issued its complaint herein, charging the respondents named in the caption hereof with having violated the provisions of the Federal Trade Commission Act in the conduct of their business of selling and distributing a course of study and instruction intended for preparing students thereof for certain Civil Service positions in the United States Government. The respondents were duly served with process.

On February 12, 1959, respondents Charles F. and Marie Gomez, their counsel, and counsel supporting the complaint entered into an

Agreement Containing Consent Order To Cease And Desist; on the same date respondent James A. Sundstrom and the respective attorneys also entered into a like agreement; and on March 24, 1959, respondent Roy Huston and counsel supporting the complaint entered into a similar agreement. The three 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.

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

1. Respondent Charles F. Gomez is an individual trading and doing business as Western Coaching Bureau, with his office and principal place of business located at 2588 Mission Street, in the City of San Francisco, State of California.

Respondent Marie Gomez is the wife of respondent Charles F. Gomez and acts as his agent in the supervision, direction and operation of the aforesaid business. Her address is the same as that of respondent Charles F. Gomez.

2. Respondent James A. Sundstrom is an individual trading and doing business as Western Training Service, with his office and principal place of business located at 3500 Chinden Boulevard, in the City of Boise, State of Idaho.

3. Respondent Roy Huston is an individual trading and doing business as National Extension Service, with his office and principal place of business located at 436 East Garfield Avenue, in the City of Milwaukee, State of Wisconsin.

4. The remaining respondent Robert J. Gartner, trading as Universal Extension Service, will be disposed of in a later decision.

The respondents in these three agreements 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. The agreements also dispose of all of this proceeding as to the parties signatory thereto.

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 these agreements.

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6. The record on which the initial decision and the decision of the Commission as to respondents signatory to these agreements shall be based shall consist solely of the complaint and these agreements.

7. These agreements shall not become a part of the official record unless and until they become a part of the decision of the Commission.

8. These agreements are for settlement purposes only and do not constitute an admission by respondents signatory thereto 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 agreements, the latter are hereby approved and accepted and are ordered filed if and when said agreements shall have become a part of the Commission's decision. The hearing examiner finds from the complaint and the said agreements that the Commission has jurisdiction of the subject matter of this proceeding and of the persons of each of the respondents signatory to such agreements; that the complaint states legal causes for complaint under the Federal Trade Commission Act against each of such 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 agreements is appropriate for the just disposition of all the issues in this proceeding as to all of the parties hereto except respondent Robert J. Gartner, trading as Universal Extension Service; and that said order, therefore, should be and hereby is entered as follows:

*It is ordered,* That respondents Charles F. Gomez, individually and doing business under the name of Western Coaching Bureau, or under any other name; Marie Gomez, individually; respondent James A. Sundstrom, individually and doing business under the name of Western Training Service, or under any other name; and respondent Roy Huston, individually and doing business under the name of National Extension Service, or under any other name, and their representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of courses of study and instruction,

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do forthwith cease and desist from representing, directly or indirectly, that:

1. There are vacancies for any specified United States Civil Service positions, when such vacancies do not exist;
2. Positions in the United States Civil Service which may be open are available to all persons;
3. Positions in the United States Civil Service which are restricted to any group or otherwise restricted or require certain qualifications are open, unless the fact that such restrictions and qualifications exist is clearly set forth;
4. The starting salary, or any other salary, that may be received by persons receiving a Civil Service appointment is higher than is the fact;
5. Their said business, their agents or representatives, or any one of them, has any connection with the United States Civil Service Commission, any agency thereof, or any other agency of the United States Government;
6. Completion of respondents' course of instruction makes persons eligible for appointment to, or assures them of or guarantees United States Civil Service positions.

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 1st day of July 1959, become the decision of the Commission; and, accordingly:

*It is ordered*, That the above-named respondents, except respondent Robert J. Gartner, trading as Universal Extension Service, 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.

Before *Mr. Loren H. Laughlin*, hearing examiner.

*Mr. Berryman Davis* and *Mr. John J. McNally* for the Commission.

*B. J. Cunningham, Jr., Esq.*, of *Cunningham & Cunningham*, of Grand Island, Nebr., and of *O'Gara and O'Gara*, of San Francisco, Calif., for respondent Gartner.

INITIAL DECISION AS TO RESPONDENT GARTNER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) on August 21, 1958, issued its com-

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plaint herein, charging respondent Robert J. Gartner with having violated the provisions of the Federal Trade Commission Act in the conduct of his business of selling and distributing a course of study and instruction intended for preparing students thereof for certain Civil Service positions in the United States Government. Respondent was duly served with process.

On May 19, 1959, respondent Gartner, his attorney, and counsel supporting the complaint entered into an Agreement Containing Consent Order To Cease And Desist, 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 Robert J. Gartner is an individual trading and doing business as Universal Extension Service, with his office and principal place of business located at First National Bank Building, in the City of Grand Island, State of Nebraska.

2. Respondent Robert J. Gartner 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.

3. This agreement disposes of all of this proceeding as to respondent Robert J. Gartner only; and the undisposed portion of this matter is pending before the Commission on an initial decision pertaining to the same.

4. Respondent Robert J. Gartner waives:

(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 he may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement.

5. 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.

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

7. This agreement is for settlement purposes only and does not constitute an admission by respondent Robert J. Gartner that he has violated the law as alleged in the complaint.

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8. The following order to cease and desist may be entered in this proceeding by the Commission without further notice to respondent Robert J. Gartner. 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," said agreement is hereby approved and accepted and is ordered filed if and when said agreement shall have become a part of the Commission's decision. The hearing examiner finds from the complaint and the said agreement that the Commission has jurisdiction of the subject matter of this proceeding and of the respondent herein; that the complaint states a legal cause for complaint under the Federal Trade Commission Act against the respondent Gartner, 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 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:

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*It is ordered,* That respondent Robert J. Gartner, individually and doing business under the name of Universal Extension Service, or under any other name, and his representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of courses of study and instruction, do forthwith cease and desist from representing, directly or indirectly, that:

1. There are vacancies for any specified United States Civil Service positions, when such vacancies do not exist;
2. Positions in the United States Civil Service which may be open are available to all persons;
3. Positions in the United States Civil Service which are restricted to any group or otherwise restricted or require certain qualifications are open, unless the fact that such restrictions and qualification exist is clearly set forth;
4. The starting salary, or any other salary, that may be received by persons receiving a Civil Service appointment is higher than is the fact;

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5. His said business, his agents or representatives, or any one of them, has any connection with the United States Civil Service Commission, any agency thereof, or any other agency of the United States Government;

6. Completion of respondent's course of instruction makes persons eligible for appointment to, or assures them of, or guarantees, United States Civil Service positions.

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 4th day of July, 1959, become the decision of the Commission; and, accordingly:

*It is ordered.* That respondent Robert J. Gartner, trading as Universal Extension Service, shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with the order to cease and desist.

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IN THE MATTER OF

CHARLES FORD & ASSOCIATES OF THE  
MIDWEST, INC., ET AL.

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

*Docket 7338. Complaint, Dec. 17, 1958—Decision, July 1, 1959*

Consent order requiring two affiliated Chicago concerns to cease obtaining advance fees from businessmen seeking loans and property owners wanting to sell, by offering false inducements including representations that they were affiliated with lending institutions which would make loans to anyone they recommended, and that even larger loans than those requested would be obtained for those paying the fee; that they had ready buyers interested in the specific properties and that asking prices should be increased; and that the advance fees would be refunded if the loans were not procured or the properties sold.

*Mr. John W. Brookfield, Jr., and Mr. William A. Somers* supporting the complaint.

*Mr. Lawrence S. Jacobson of Jacobson and Lieberman, of Chicago, Ill.,* for respondents.

## INITIAL DECISION BY WALTER R. JOHNSON, HEARING EXAMINER

In the complaint dated January 21, 1959, the respondents are charged with violating the provisions of the Federal Trade Commission Act and the Rules and Regulations made pursuant thereto.

On April 21, 1959, respondents Charles Ford & Associates of the Midwest, Inc., a corporation, by its duly authorized officer, and Charles C. Solk, individually and as an officer of said corporation, Casey and Associates, Incorporated, by its duly authorized officer, Charles C. Solk, individually and as an officer of said corporation, and Emmet R. Casey, individually and as a former officer of said corporation and George B. Bry, individually, and their attorneys and John W. Brookfield, Jr., and William A. Somers, Counsel in Support of the Complaint, entered into an agreement for a consent order.

The hearing examiner finds that the content of the agreement meets all the requirements of Section 3.25(b) of the Rules of the Commission, and contains a statement that the signing of 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.

In said agreement it is agreed that the complaint shall be dismissed as to respondents Donald Karol and Gerald Newman, individually and as officers of the corporate respondents and Carl F. Strodel and A. R. O'Rourke, individually, for the reasons set out in affidavits, executed by each of said respondents, attached to said agreement and made a part thereof.

Affiant Donald Karol states that he is not now and has not been since early February 1959 employed by the corporate respondents in any capacity whatever; that his powers, duties and functions as an employee of said corporations were entirely menial and he had no power or authority with respect to the operation of the business activities of said corporations; that he did not at any time participate in any way in solicitation of clients or prospective clients of either of said corporations; that the use of his name as officer or director of said corporations was permitted by him merely as an accommodation to Mr. Charles C. Solk and at no time was he vested with any actual power or authority involved in acting as officer.

Affiant Gerald Newman states that since approximately 1954 he has been employed by Mr. Charles C. Solk as a bookkeeper in various business enterprises owned or controlled by Mr. Solk; that although his name appeared as officer or director of some of the corporations controlled by Mr. Solk, the use of his name was for purposes of Mr. Solk's convenience, that he was at no time vested with

actual power or authority customarily involved in acting as officer or director of such corporations; that his duties and authority were always limited to bookkeeping; that he did not at any time participate in any way in the solicitation, execution or performance of contracts between the corporate respondents and the clients of said corporations.

Affiant Carl F. Strodel states that he was engaged by Casey and Associates, Inc. at approximately the time it was organized as an independent contractor to advise and assist in establishing the operational structure of the business of the corporation, particularly with respect to the business management consultation aspect thereof; that the services rendered by him to said corporation have been largely in connection with that aspect of said corporation's business and said services were rendered by him as an independent contractor and not as an employee; that he is not now and has not been at any time either an officer, director or shareholder of said corporation, and that he was at no time affiliated or associated in any way whatever with Charles Ford & Associates of the Midwest, Inc.

Affiant A. R. O'Rourke states that he became an employee of Casey and Associates, Inc. in August of 1958 and his duties as such employee consisted entirely and exclusively of assembling, analyzing and presenting to prospective lenders, financial data furnished to his employer by its clients; that he did not at any time participate in any way in obtaining contracts with said corporation's clients; that he did not participate or have any voice in the general operations or policies of the business activities of said corporation; that his work consisted solely of performing services after the execution of contracts of said corporation's clients; that he is not and has not at any time been either an officer, director or shareholder of said corporation and his activities as an employee of said corporation played no part whatever in the solicitation or execution of contracts between said corporation and its clients; that he was at no time affiliated or associated in any way whatever with Charles Ford & Associates of the Midwest, Inc.

The hearing examiner being of the opinion that the agreement and the proposed order provide an appropriate basis for disposition of this proceeding as to all of the parties, the agreement is hereby accepted and it is ordered that the agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission.

The following jurisdictional findings are made and the following order issued.

1. Respondent Charles Ford & Associates of the Midwest, Inc., is a corporation organized, existing and doing business under and

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by virtue of the laws of the State of Illinois. Respondent Charles C. Solk is an individual and officer of said corporate respondent.

2. Respondent Casey and Associates, Incorporated is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois. Respondent Charles C. Solk is an individual and officer of said corporate respondent and respondent Emmet R. Casey is an individual and former officer of said corporate respondent, and respondent George B. Bry is an individual.

3. The office and principal place of business of all of said respondents is 10 North Clark Street, Chicago, Illinois.

4. 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 Charles Ford & Associates of the Midwest, Inc., a corporation, and its officers and Charles C. Solk, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any other corporate device, in connection with the offering for sale or sale of advertising in any advertising media, or of other services and facilities in connection with the offering for sale, selling, buying or exchanging of business or any other kind of property, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that:

1. Respondents have available prospective buyers who are interested in the purchase of the specific property sought to be listed or advertised.

2. Respondents will finance the purchase of the listed property.

3. The property is underpriced by the owner or that the asking price should be increased or that respondents can or will sell the property at the increased price.

4. Respondents assume all risks or obligations in connection with their activities in listing or attempting to sell the listed property, or that the owner or prospective borrower has nothing to lose.

5. Respondents are associated with large numbers of cooperating brokers who will assist in the sale of the listed property.

6. The listing or advance fee will be refunded if the property is not sold within a short period of time.

7. Property listed with respondents will be sold within a short period of time, or that the sale is guaranteed, or that respondents

have sold the property of others, who listed it with them, within a few weeks or other short period of time.

*It is further ordered*, That respondents Casey and Associates, Incorporated, a corporation, and its officers and Charles C. Solk, individually and as an officer of said corporation, Emmet R. Casey, individually and as a former officer of said corporation, and George B. Bry, individually, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, or sale, of services to obtain loans for, or financial assistance to, businessmen or others, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that:

1. Respondents will obtain loans within a short period of time.
2. Respondents will refund the fee paid in the event they do not obtain a loan.
3. Respondents can and will obtain larger loans than the loans requested by businessmen.
4. Respondents are agents of, correspondents for, or are affiliated with banks, insurance companies, or other lending and financing institutions.
5. Banks or other lending institutions will make loans to anyone recommended by respondents.
6. Respondents have obtained loans within short periods of time for other businessmen.
7. Respondents' principal business is that of business consultants and that their service in obtaining loans is only a part of their principal business.

*It is further ordered*, That the complaint be and the same hereby is dismissed as to respondents Donald Karol and Gerald Newman, individually and as officers of said corporations, and Carl F. Strodel and A. R. O'Rourke, individually, without prejudice to the right of the Commission to take such action in the future as may be warranted by the then existing conditions.

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 1st day of July, 1959, become the decision of the Commission; and, accordingly:

*It is ordered*, That the respondents, except those against whom the complaint has been dismissed, shall, within sixty (60) days after service upon them of this order, file with the Commission a report,

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in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

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IN THE MATTER OF

HACKER, SIAMON & ELFENBEIN, INC., ET AL.

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

*Docket 7457. Complaint, Apr. 1, 1959—Decision, July 3, 1959*

Consent order requiring a New York City furrier to cease violating the Fur Products Labeling Act by failing to comply with labeling and invoicing requirements.

*Mr. John T. Walker* for the Commission.

Respondents, *pro se*.

INITIAL DECISION BY FRANK HIER, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act and the Rules and Regulations made pursuant thereto, the Federal Trade Commission on April 1, 1959, issued and subsequently served its complaint in this proceeding against the above-named respondents.

On May 7, 1959, there was submitted to the undersigned hearing examiner an agreement between respondents and counsel supporting the complaint providing for the entry of a consent order.

Under the foregoing agreement, the respondents admit the jurisdictional facts alleged in the complaint. The parties agree, among other things, that the cease and desist order there set forth may be entered without further notice and have the same force and effect as if entered after a full hearing and the document includes a waiver by the respondents of all rights to challenge or contest the validity of the order issuing in accordance therewith. The agreement further recites that it 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.

The hearing examiner finds that the content of the agreement meets all of the requirements of Section 3.25(b) of the Rules of the Commission.

The hearing examiner having considered the agreement and proposed order, and being of the opinion that they provide an appro-

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priate basis for settlement and disposition of this proceeding, the agreement is hereby accepted, and it is ordered that said agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission. The following jurisdictional findings are made and the following order issued.

1. Respondent Hacker, Siamon & Elfenbein, 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 242 West 30th Street, New York, New York.

Individual respondents Sidney Siamon, Nathan Hacker and William Elfenbein are president, secretary, and treasurer, respectively, of the corporate respondent, and have the same address as that of the said corporate respondent.

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

ORDER

*It is ordered*, That the respondents, Hacker, Siamon & Elfenbein, Inc., a corporation, and its officers, and Sidney Siamon, Nathan Hacker, and William Elfenbein, 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, in commerce, or the sale, advertising, offering for sale, transportation or distribution, in commerce, of fur products, or in connection with the sale, manufacture for 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. 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.

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

2. Falsely or 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 products, 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 invoice;

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

(7) The item number or mark assigned to a fur product.

#### 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 3rd day of July, 1959, 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

## PREMIER KNITTING CO., INC., ET AL.

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

*Docket 7366. Complaint, Jan. 22, 1959—Decision, July 4, 1959*

Consent order requiring a Philadelphia garment finisher and dyer to cease advertising falsely that orlon products treated with "UT-Formula"—including those it sold—would not pill or fuzz up in balls.

The matter is still pending as to the distributor respondent.

*Mr. Garland S. Ferguson* for the Commission.

*Rothstein & Korzenik*, by *Mr. Harold Korzenik*, of New York, N.Y., for Universal Dye Works, Inc. and Joseph Schmitz, Jr.

## INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges respondents with the use of false, misleading and deceptive statements and representations that orlon sweaters finished with the "UT-Formula" will not pill, which statements and representations constitute unfair and deceptive acts and practices and unfair methods of competition in commerce, in violation of the Federal Trade Commission Act.

After the issuance of the complaint, respondents Universal Dye Works, Incorporated, a corporation, and Joseph Schmitz, Jr., erroneously named in the complaint as Joseph B. Schmitz, individually and as an officer of said corporation, 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 Universal Dye Works, Incorporated, is a corporation 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 Wissinoming and Friendship Streets, Philadelphia, Pennsylvania; that respondent Joseph Schmitz, Jr. is an officer of said corporation and formulates, directs and controls the acts and practices thereof, his address being the same as that of said corporate respondent. Parties signatory to the agreement recommend that, for reasons set forth in the affidavit attached to and made a part of said agreement, the complaint herein be dismissed insofar as it relates to respondents Fred C. Oshell,

Catherine Conver, and Lily M. Schmitz, individually and as officers of respondent Universal Dye Works, Incorporated. The agreement states that respondents not named therein will be dealt with by further proceedings.

Respondents signing the agreement 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.

The agreement provides, among other things, 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 signing 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 Federal Trade Commission Act, as to the respondents signing said agreement. 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 Universal Dye Works, Incorporated, a corporation, and its officers and Joseph Schmitz, Jr., individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of their UT-Formula, or any other preparation possessing substantially the same properties, in commerce, as "commerce" is defined in the Federal Trade Commission Act, or in connection with Orlon sweaters or other Orlon products which have

been finished by their UT-Formula, or by any other preparation or formula possessing substantially the same properties, which products are offered for sale, sold and distributed in said commerce, do forthwith cease and desist from:

1. Representing, directly or by implication, that Orlon sweaters or other Orlon products treated with their UT-Formula will not pill;

2. Furnishing means and instrumentalities, or putting into operation any plan, which may induce others to represent that Orlon products treated with UT-Formula, will not pill.

*It is further ordered*, That the complaint be, and the same hereby is, dismissed as to Fred C. Oshell, Catherine C. Conver, and Lily M. Schmitz, individually and as officers of said 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 4th day of July, 1959, become the decision of the Commission; and, accordingly:

*It is ordered*, That respondents Universal Dye Works, Incorporated, a corporation, and Joseph Schmitz, Jr., erroneously named in the complaint as Joseph B. Schmitz, 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

MAIN LINE LUMBER AND MILLWORK COMPANY, ET AL.

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

*Docket 7442. Complaint, Mar. 12, 1959—Decision, July 4, 1959*

Consent order requiring a distributor of prefabricated homes and garages in Wayne, Pa., to cease representing falsely in newspaper and other advertisements that its stated prices included certain appliances, features, equipment, materials, or services which were, in fact, extra cost items and for which purchasers were required to pay separately.

*Mr. Edward F. Downs* for the Commission.

*Mr. Edwin P. Rome*, of Philadelphia, Pa., for respondents.

## INITIAL DECISION BY FRANK HIER, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on March 12, 1959, issued and subsequently served its complaint in this proceeding against the above-named respondents.

On May 6, 1959, there was submitted to the undersigned hearing examiner an agreement between respondents and counsel supporting the complaint providing for the entry of a consent order.

Under the foregoing agreement, the respondents admit the jurisdictional facts alleged in the complaint. The parties agree, among other things, that the cease and desist order there set forth may be entered without further notice and have the same force and effect as if entered after a full hearing and the document includes a waiver by the respondents of all rights to challenge or contest the validity of the order issuing in accordance therewith. The agreement further recites that it 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.

The hearing examiner finds that the content of the agreement meets all of the requirements of Section 3.25(b) of the Rules of the Commission.

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, and it is ordered that said agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission. The following jurisdictional findings are made and the following order issued.

1. Respondent Main Line Lumber and Millwork Company, is a corporation 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 107 North Aberdeen Avenue, Wayne, Pennsylvania.

Respondents Harry K. Madway, Ralph K. Madway, Sam Madway and Pauline M. Margolis are individuals and officers of the corporate respondent Main Line Lumber and Millwork Company, with their office and principal place of business located at the same address as the corporate respondent.

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

## ORDER

*It is ordered,* That respondents Main Line Lumber and Millwork Company, a corporation and its officers, and Harry K. Madway, Ralph K. Madway, Sam Madway and Pauline M. Margolis, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of prefabricated homes, garages, or other buildings, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Representing directly or by implication that an advertised or stated price includes appliances, fixtures, equipment, material or services that are not included in said advertised or stated price.

## 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 4th day of July, 1959, 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

JACK ROBINSON TRADING AS MONARCH CARNIVAL  
SUPPLY COMPANYCONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF  
THE FEDERAL TRADE COMMISSION ACT

*Docket 7419. Complaint, Feb. 24, 1959—Decision, July 7, 1959*

Consent order requiring a Washington, D.C., distributor of a variety of products to cease selling devices for resale of the merchandise to members of the public by chance or lottery.

*Mr. Alvin D. Edelson* for the Commission.  
Respondent, *pro se.*

INITIAL DECISION BY EVERETT F. HAYCRAFT, HEARING EXAMINER

On February 24, 1959, the Federal Trade Commission issued its complaint against the above-named respondent charging him with

violating the provisions of the Federal Trade Commission Act in connection with the sale of a variety of products ranging from toy animals, balloons and assorted novelty items to aluminum ware. On April 28, 1959, the respondent and counsel supporting the complaint entered into an agreement containing a consent order to cease and desist in accordance with Section 3.25(a) of the Rules of Practice and Procedure of the Commission.

Under the foregoing agreement, the respondent admits the jurisdictional facts alleged in the complaint. He agrees, among other things, that the cease and desist order there set forth may be entered without further notice and shall have the same force and effect as if entered after a full hearing. The agreement includes a waiver by the respondent of all rights to challenge or contest the validity of the order issuing in accordance therewith; and recites that the said 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 it is for settlement purposes only and does not constitute an admission by the respondent that he has violated the law as alleged in the complaint. The hearing examiner finds that the content of the said agreement meets all the requirements of Section 3.25(b) of the Rules of Practice.

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 Section 3.21 of the Rules of Practice; and in consonance with the terms of the said agreement, the hearing examiner makes the following jurisdictional findings and order:

1. Respondent Jack Robinson is an individual trading as Monarch Carnival Supply Company with his principal place of business located at 2020 Rhode Island Avenue, N.E., Washington, D.C.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent hereinabove named. The complaint states a cause of action against said respondent under the Federal Trade Commission Act, and this proceeding is in the interest of the public.

ORDER

*It is ordered.* That respondent Jack Robinson, an individual trading as Monarch Carnival Supply Company, or under any other name, and respondent's agents, representatives and employees, directly or through any corporate or other device, in connection with

the offering for sale, sale and distribution of merchandise in commerce as "commerce" is defined in the Federal Trade Commission Act do forthwith cease and desist from:

1. Supplying, selling, or placing in the hands of others, by any means, any device or devices which are designed or intended to be used in the sale or distribution of merchandise to the public by means of a game of chance, gift enterprise, or lottery scheme.

2. Selling or otherwise disposing of any merchandise by means of a game of chance, gift enterprise, or lottery scheme.

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 July, 1959, become the decision of the Commission; and, accordingly:

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

IN THE MATTER OF

STACEY-WARNER CORP. ET AL.

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

*Docket 7305. Complaint, Nov. 18, 1958—Decision, July 8, 1959*

Consent order requiring a number of New York City concerns to cease representing falsely that the battery additive they distributed—known variously as "VX-6," "Voltex-6," etc.—had been tested and approved by the National Bureau of Standards and cleared by the U.S. Government for public use; that the product, or a similar one, was in regular use on the S.S. *Queen Mary* and S.S. *Queen Elizabeth* and on planes and other equipment of National Airlines; that articles in Reader's Digest and Popular Science reflected favorably on the product; and that it was guaranteed or insured by Lloyds of London.

*Harold A. Kennedy*, Esq., and *Thomas F. Howder*, Esq., for the Commission.

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

INITIAL DECISION BY ROBERT L. PIPER, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on November 18, 1958, charging them with

having violated the Federal Trade Commission Act in connection with the sale and distribution of a battery additive. On April 13, 1959, counsel supporting the complaint entered into three Agreements Containing Consent Order To Cease And Desist: the first with all respondents herein except Allan A. Hecht (erroneously named in the complaint as Alan A. Hecht), an individual doing business as Voltex Company; National Dynamics Corp., a corporation; and Elliott Meyer, individually and as an officer thereof; the second with respondent Allan A. Hecht; and the third with respondents National Dynamics Corp., and Elliott Meyer. These three agreements, which together dispose of all the issues as to all respondents in this proceeding, have been duly approved by the Director and an Assistant Director of the Bureau of Litigation. Said agreements have been submitted to the undersigned, heretofore duly designated to act as hearing examiner herein, for his consideration in accordance with §3.25 of the Rules of Practice of the Commission.

Respondents, pursuant to the aforesaid agreements, have admitted all of the jurisdictional allegations of the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been made duly in accordance with such allegations. Said agreements further provide that respondents waive all further procedural steps before the hearing examiner or the Commission, including the making of findings of fact or conclusions of law and the right to challenge or contest the validity of the order to cease and desist entered in accordance with such agreements. It has also been agreed that the record herein shall consist solely of the complaint and said agreements, that the agreements shall not become a part of the official record unless and until they become a part of the decision of the Commission, that said agreements are for settlement purposes only and do not constitute an admission by respondents that they have violated the law as alleged in the complaint, that said order to cease and desist 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.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreements containing the consent order, and it appearing that the order and agreements cover all of the allegations of the complaint and provide for appropriate disposition of this proceeding, the agreements are hereby accepted and ordered filed upon this decision and said agreements becoming part of the Commission's decision pursuant to §§3.21 and 3.25 of the

Rules of Practice, and the hearing examiner accordingly makes the following findings, for jurisdictional purposes, and order:

Respondent Stacey-Warner Corp. is a corporation existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at 220 East 23rd Street, in the City of New York, State of New York.

Respondents Frank Schere and Elliott Meyer are officers of said Stacey-Warner Corp., and now, and at all times relevant herein, formulate, direct and control the acts and practices of said corporate respondent. Their address is the same as that of said corporate respondent.

Respondent Campbell-Smith Co., Inc., 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 22 East 17th Street, in the City of New York, State of New York.

Respondent Melvin Seligman is the president of Campbell-Smith Co., Inc., and now, and at all times relevant herein, formulates, directs and controls the acts and practices of said corporate respondent. His address is 116 Fifth Avenue, in the City of New York, State of New York.

Respondent Mapleton Service, Inc., 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 22 East 17th Street, in the City of New York, State of New York.

Respondents Murray Ross and Robert Vallon are officers of said Mapleton Service, Inc., and now, and at all times relevant herein, formulate, direct and control the acts and practices of said corporate respondent. Their address is the same as that of the corporate respondent.

Marvin Schere is an individual in the employ of Mapleton Service, Inc. His address is the same as that of said Mapleton Service, Inc.

Respondent David Geller is an individual doing business as David Geller, with his office and principal place of business located at 31 West 47th Street, in the City of New York, State of New York.

Respondent Parker Advertising, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Maryland, with its office and principal place of business located at 42 West 38th Street (formerly located at 9 East 45th Street), in the City of New York, State of New York.

Respondent L & D Automotive Products, Inc., 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 42 West 38th Street (formerly located at 9 East 45th Street), in the City of New York, State of New York.

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Respondent Biotex, Ltd. 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 42 West 38th Street (formerly located at 9 East 45th Street), in the City of New York, State of New York.

Respondent David Ratke is the president of said Parker Advertising, Inc. He now, and at all times relevant herein, formulates, directs and controls the acts and practices of said Parker Advertising, Inc., L & D Automotive Products, Inc. and Biotex, Ltd. His address is the same as that of said corporate respondents.

Respondent National Dynamics Corp. is a corporation existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at 220 East 23rd Street, in the City of New York, State of New York.

Respondent Elliott Meyer is the president of said National Dynamics Corp. and now, and at all times relevant herein, formulates, directs and controls the acts and practices of said corporate respondent. His address is the same as that of said corporate respondent.

Respondent Allan A. Hecht is an individual trading and doing business as Voltex Company, with his office and principal place of business located at 241 Lafayette Street, in the City of New York, State of New York.

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 Stacey-Warner Corp., a corporation, and its officers; Campbell-Smith Co., Inc., a corporation, and its officers; Mapleton Service, Inc., a corporation, and its officers; Parker Advertising, Inc., a corporation, and its officers; L & D Automotive Products, Inc., a corporation, and its officers; Biotex, Ltd., a corporation, and its officers; and Frank Schere, individually and as an officer of Stacey-Warner Corp.; Elliott Meyer, individually and as an officer of Stacey-Warner Corp.; Melvin Seligman, individually and as an officer of Campbell-Smith Co., Inc.; Murray Ross, individually and as an officer of Mapleton Service, Inc.; Robert Vallon, individually and as an officer of Mapleton Service, Inc.; Marvin Schere, an individual; David Geller, an individual doing business as David Geller; and David Ratke, individually and as an officer or directing official of Parker Advertising, Inc., L & D Auto-

## Order

motive Products, Inc., and Biotex, Ltd.; National Dynamics Corp., a corporation, and its officers, Elliott Meyer, individually and as officer of National Dynamics Corp.; Allan A. Hecht, an individual doing business as Voltex Company, and their representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution, of a battery additive, now known as VX-6, Voltex-6, Voltex, Voltex-Liquilectric, or of any other battery additive of substantially similar composition or possessing substantially similar properties, whether sold under the same name or any other name, 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 said product has been tested, approved or recognized by the National Bureau of Standards, or that a similar product has been tested, approved or recognized by the National Bureau of Standards; or has been tested, approved or recognized by any other branch or agency of the United States Government, unless such is the fact;

2. That said product has been cleared by the United States Government for public use;

3. That said product, or one similar to it, is in regular use or has been regularly used on the S.S. *Queen Elizabeth*, the S.S. *Queen Mary*, the planes or other equipment of National Airlines; or that said product, or one similar to it, is in use or has been used on any machine or equipment by or on the above-mentioned ships or airlines or on any other machine or equipment or by any other person or firm, unless such is the fact;

4. That either the *Reader's Digest* or *Popular Science* or both have published articles reflecting favorably upon said product; or that any other magazine, periodical or publication has published an article reflecting favorably upon said product, or one similar to it, unless such is the fact;

5. That Lloyds of London has guaranteed or insured said product or in any way warranted its effectiveness, except that this shall not be construed to prohibit a truthful representation concerning product liability coverage.

*It is further ordered.* That all respondents named herein except Allan A. Hecht, an individual doing business as Voltex Company, 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 a battery additive, now known as VX-6, Voltex-6, Voltex, Voltex-Liquilectric, or of any other battery addi-

tive of substantially similar composition or possessing substantially similar properties, whether sold under the same name or any other name, 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 said product is in regular use or has been regularly used on United States Navy battery-driven submarines or any other equipment of the United States Navy; or that said product or one similar to it, is used or has been used by the United States Navy or any Government agency or other organization, person or firm, unless such is the fact.

*It is further ordered.* That all respondents named herein except Stacey-Warner Corp., National Dynamics Corp., a corporation, and its officers, Elliott Meyer, individually and as officer of National Dynamics Corp., 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 a battery additive, now known as VX-6, Voltex-6, Voltex, Voltex-Liquilectric, or of any other battery additive of substantially similar properties, whether sold under the same name or any other name, 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 the supply of said product for public use has been limited because of the demands of the Government or any other person, firm or organization.

*It is further ordered.* That respondents National Dynamics Corp., a corporation, and its officers, Elliott Meyer, individually and as officer of National Dynamics Corp., 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 a battery additive, now known as VX-6, Voltex-6, Voltex, Voltex-Liquilectric, or of any other battery additive of substantially similar composition or possessing substantially similar properties, whether sold under the same name or any other name, 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 one or any of the persons associated in the distribution or sale of said product is a guided missile battery expert or scientist, 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 8th day of

July, 1959, become the decision of the Commission; and, accordingly:

*It is ordered,* That the above-named 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.

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IN THE MATTER OF

N & W ENTERPRISES, INC., ET AL.

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

*Docket 7308. Complaint, Nov. 18, 1958—Decision, July 8, 1959*

Consent order requiring a distributor in St. Petersburg, Fla., to cease advertising falsely that its "Sykes Hernia Control" devices were not trusses and misrepresenting their effectiveness, and to cease claiming falsely that its representatives were specialists in the fitting of trusses, and that it had been in the business of rupture control since 1916.

*Mr. Morton Nesmith* for the Commission.

*Galiher & Stewart*, by *Mr. Austin F. Canfield, Jr.*, of Washington, D.C., for respondents.

INITIAL DECISION BY FRANK HIER, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on November 18, 1958, issued and subsequently served its complaint in this proceeding against the above-named respondents.

On May 21, 1959, there was submitted to the undersigned hearing examiner an agreement between respondents and counsel supporting the complaint providing for the entry of a consent order.

Under the foregoing agreement, the respondents admit the jurisdictional facts alleged in the complaint. The parties agree, among other things, that the cease and desist order there set forth may be entered without further notice and have the same force and effect as if entered after a full hearing and the document includes a waiver by the respondents of all rights to challenge or contest the validity of the order issuing in accordance therewith. The agreement further recites that it 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.

Order

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The hearing examiner finds that the content of the agreement meets all of the requirements of Section 3.25(b) of the Rules of the Commission.

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, and it is ordered that said agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission. The following jurisdictional findings are made and the following order issued.

1. Respondent N & W Enterprises, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Florida. Said corporation is, and has been, doing business as Sykes Hernia Control Service. Respondents Janet L. Winters, Henry W. Winters, and Nancy Jean Winters Jackman are officers of respondent N & W Enterprises, Inc. The address of all respondents is 6716 Central Avenue, St. Petersburg, Florida.

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

## ORDER

*It is ordered,* That the respondents, N & W Enterprises, Inc., a corporation, and its officers, and Janet L. Winters, Henry W. Winters, and Nancy Jean Winters Jackman, 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 devices known as Sykes Hernia Control, or any device of substantially similar construction or design, whether sold under said name or any other name, do forthwith cease and desist from, directly or indirectly:

1. Disseminating or causing to be disseminated, by means of the United States mails, or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which represents, directly or by implication:

- (a) That said devices are not trusses.
- (b) That said devices will retain or hold ruptures or hernias unless limited to reducible ruptures or hernias.
- (c) That the use of said devices will cure ruptures or hernias.
- (d) That respondents' representatives are medical specialists in the field of ruptures or hernias.
- (e) That said devices will retain ruptures or hernias under all conditions of activity or strain.

(f) That respondents, or any of them, have been in the business of rupture control since 1916; or misrepresenting the period of time that they, or any of them, have been in such business.

2. Disseminating or causing to be disseminated, 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 devices, any advertisement which contains any of the representations prohibited by paragraph 1 of this order.

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 July, 1959, 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  
GLADDINGS, INC., ET AL.

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

*Docket 7378. Complaint, Jan. 26, 1959—Decision, July 8, 1959*

Consent order requiring a furrier in Providence, R.I., to cease violating the Fur Products Labeling Act by labeling fur products with fictitious prices represented as regular retail prices; by failing to comply in other respects with labeling and invoicing requirements; and by advertising in newspapers which failed to disclose the names of animals producing certain furs or that products contained artificially colored furs, failed to use the term "Dyed Broadtail-processed Lamb" as required, and falsely represented prices of fur products as "below the furrier's original cost."

*Mr. John T. Walker* for the Commission.

*Edwards & Angell*, by *Mr. Edward Winsor*, of Providence, R.I., for respondents.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on January 26, 1959, charging Respondents with misbranding and falsely and deceptively invoic-

ing and advertising certain of their fur products, in violation of the Federal Trade Commission Act and of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder.

Thereafter, on May 7, 1959, Respondents, their counsel, and counsel supporting the complaint herein 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 Gladdings, Inc. as a Rhode Island corporation, with its office and principal place of business located at 291 Westminster Street, Providence, Rhode Island, and individual Respondent Leonard E. Johnson as president of the said corporate Respondent, his address being the same as that of the said 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 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. 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.

Having considered 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 Respondents, Gladdings, Inc., a corporation, and its officers, and Leonard E. Johnson, individually, and as president 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, in commerce, of fur products, or in connection with the sale, advertising, offering for sale, transportation or distribution of fur products which are 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. Falsely or deceptively labeling or otherwise identifying such products as to the regular retail selling prices thereof by any representation that the regular or usual prices of such products are any among in excess of the prices at which Respondents have usually and customarily sold such products in the recent regular course of business;

B. 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;

C. Setting forth on labels affixed to fur products information required under §4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, mingled with non-required information;

D. Failing to set forth the information required under §4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, in the required sequence;

2. Falsely or 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 products 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 invoice:

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

B. Setting forth information required under §5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, in abbreviated form;

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;

B. Fails to set forth the term "Dyed Broadtail-processed Lamb" in the manner required;

C. Represents, directly or by implication, that prices of fur products are "below the furrier's original cost," or words of similar import and meaning, when such is not 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 8th day of July, 1959, become the decision of the Commission; and, accordingly:

*It is ordered*, That Respondents Gladdings, Inc., a corporation, and Leonard E. Johnson, individually and as president 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.

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IN THE MATTER OF

COMSTOCK CHEMICAL COMPANY, INC., ET AL.

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

*Docket 7272. Complaint, Oct. 7, 1958—Decision, July 9, 1959*

Consent order requiring New York City distributors to cease advertising falsely the quality, composition, characteristics, performance, endorsement, and guarantee of a chemically impregnated cleaning and polishing mitt for automobiles designated "ROLL-A-SHINE," by such statements as that the mitt had been developed by General Electric Company, had been used, tested, and approved by the Army and Navy and endorsed by Reader's Digest, was unconditionally guaranteed for three years and would last three years, etc.

*Mr. Terral A. Jordan* supporting the complaint.

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

INITIAL DECISION BY EVERETT F. HAYCRAFT, HEARING EXAMINER

On October 7, 1958, the Federal Trade Commission issued its complaint against the above-named respondents charging them with violating the provisions of the Federal Trade Commission Act by making false and misleading statements to the buying public representing the quality, composition, characteristics, performance, endorsement and guarantee of their products.

On May 21, 1959, the respondents and their attorney and counsel supporting the complaint entered into an agreement containing a consent order to cease and desist in accordance with Section 3.25 (a) of the Rules of Practice and Procedure of the Commission.

Under the foregoing agreement, the respondents admit the jurisdictional facts alleged in the complaint. The parties agree, among other things, that the cease and desist order there set forth may be entered without further notice and shall have the same force and effect as if entered after a full hearing. The agreement includes a waiver by the respondents of all rights to challenge or contest the validity of the order issuing in accordance therewith; and recites that the said agreement shall not become a part of the official record.

Order

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unless and until it becomes a part of the decision of the Commission and that it 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. The hearing examiner finds that the content of the said agreement meets all the requirements of Section 3.25(b) of the Rules of Practice.

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 as to all parties, the aforesaid agreement is hereby accepted and is ordered filed upon becoming part of the Commission's decision in accordance with Section 3.21 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 Comstock Chemical Company, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of New York.

2. Respondents David L. Ratke and Herman Liebenson are individuals and are respectively president and secretary of said corporate respondent.

3. Respondent Monroe Caine is an individual. The principal office and place of business of the respondents is located at 42 W. 38th Street, New York, New York, formerly located at 9 East 45th Street, New York, New York.

4. 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 Comstock Chemical Company, Inc., a corporation, and its officers, and David L. Ratke and Herman Liebenson, individually and as officers of said corporation, and Monroe Caine, an individual, 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 a mitt or cloth impregnated with a silicone and a wax or any substantially similar product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from directly or indirectly representing:

1. That use of said products eliminates automobile waxing, washing or polishing forever; or that said products are a substitute for,

or eliminate, the need for waxing, washing or polishing automobiles for a period of time or to an extent greater than that actually afforded by said products.

2. That said products have been endorsed or approved by Reader's Digest magazine; or that said products have been endorsed or approved by any other person, firm or corporation, unless such is the fact.

3. That a single treatment with said products imparts to the user's automobile a lustrous, rust-proof, protective coating durable for a period of six months; or that said products will provide a lustrous, rust-proof, or protective coating or finish to the object to which applied for a period of time greater than that actually provided.

4. That the finish or coating imparted by said products to the object to which applied is more durable than the finish or coating imparted by wax.

5. That the finish or coating imparted by said products to the object to which applied will withstand and be unaffected by the elements of weather.

6. That the finish or coating imparted by said products to the object to which applied will be unaffected by or impenetrable to grease, grime or other substances harmful to the finish of said objects.

7. That the protective coating imparted by said products to the object to which applied renders chrome rust-proof.

8. That said products were discovered or developed by the General Electric Company of Schenectady, New York; or that said products were developed by any other person, firm or corporation, unless such is the fact.

9. That said products have been tested, used or approved by the United States Army or the United States Navy; or that said products have been tested, used or approved by any other military or public organization, unless such is the fact.

10. That said products are guaranteed unless the nature and extent of the guarantee and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed.

11. That the amount, quantity, or size of a single unit of sale of said products is sufficient to provide the advertised or otherwise represented kind of service or performance for a period of time greater than will be in fact so provided when subjected to normal usage in the manner and for the purposes advertised or represented.

## 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 did, on the 9th day of July, 1959, 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

SAM SCHNEIDER ET AL. DOING BUSINESS AS  
CONTINENTAL SALES & SEWING MACHINE COMPANYCONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF  
THE FEDERAL TRADE COMMISSION ACT

*Docket 7405. Complaint, Feb. 13, 1959—Decision, July 9, 1959*

Consent order requiring Brooklyn, N.Y., distributors of vacuum cleaners and sewing machines to cease representing fictitious and excessive amounts as regular retail prices in advertising and in instruction booklets, and to cease advertising their products falsely as covered by "Lifetime Service Insurance Policy," "Twenty-Five Year Guarantee Bond," etc.

*Mr. Michael J. Vitale* for the Commission.

*Mr. Sidney Kane*, of New York, N.Y., for respondents.

## INITIAL DECISION BY EVERETT F. HAYCRAFT, HEARING EXAMINER

On February 13, 1959, the Federal Trade Commission issued its complaint against the above-named respondents charging them with violating the provisions of the Federal Trade Commission Act in connection with the sale of vacuum cleaners and sewing machines. On May 11, 1959, the respondents and their attorney and counsel supporting the complaint entered into an agreement containing consent order to cease and desist in accordance with Section 3.25(a) of the Rules of Practice and Procedure of the Commission.

Under the foregoing agreement, the respondents admit the jurisdictional facts alleged in the complaint. The parties agree, among other things, that the cease and desist order there set forth may be entered without further notice and shall have the same force and effect as if entered after a full hearing. The agreement includes a waiver by the respondents of all rights to challenge or contest the

validity of the order issuing in accordance therewith; and recites that the said 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 it 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. The hearing examiner finds that the content of the said agreement meets all the requirements of Section 3.25(b) of the Rules of Practice.

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 as to all parties, the aforesaid agreement is hereby accepted and is ordered filed upon becoming part of the Commission's decision in accordance with Section 3.21 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. Respondents, Sam Schneider and Dorothy Schneider, are co-partners trading and doing business as Continental Sales & Sewing Machine Company, with their office and principal place of business located at 74 Throop Avenue, Brooklyn, New York.

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 Sam Schneider and Dorothy Schneider, individually and as co-partners, trading and doing business as Continental Sales & Sewing Machine Company, or trading and doing business under any other name or names, 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 vacuum cleaners, sewing machines or any other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication:

(a) That any price is the usual and regular retail price of merchandise when it is in excess of the price at which said merchandise is usually and regularly sold at retail in the normal course of business;

(b) That any merchandise sold or offered for sale is guaranteed,

unless the nature and extent of the guarantee and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed;

(c) That any product is guaranteed when a service charge is made in connection therewith unless such fact and the amount of such charge is clearly set forth;

(d) That any merchandise sold or offered for sale is covered by any kind of a service insurance policy or bond.

2. Placing in the hands of others, means or instrumentalities which may be used to misrepresent the regular and usual retail prices of merchandise.

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 9th day of July, 1959, 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.

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IN THE MATTER OF

FREISS ORIGINALS, INC., ET. AL

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

*Docket 7451. Complaint, Mar. 24, 1959—Decision, July 9, 1959*

Consent order requiring New York City manufacturers to cease violating the Wool Products Labeling Act by labeling as 100% wool, ladies' coats which contained a substantial quantity of other fibers; by failing to label certain wool products as required; and by furnishing false guarantees that certain of their wool products were not misbranded.

*Mr. Kent P. Kratz* for the Commission.

*Mr. Otto A. Samuels*, of New York, N.Y., for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges respondents with misbranding certain of their wool products, in violation of §4(a)(1) and §4(a)(2) of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, and with furnishing false guarantees that

certain of their wool products were not misbranded, in violation of §9 of said Act, which practices 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.

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 Freiss Originals, Inc. 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 205 West 39th Street, New York, New York, and that individual respondents Isidore Reiss, Howard Reiss, Fred Reiss and Edward Reiss are president, vice president, treasurer, and secretary, respectively, of the corporate respondent; that they cooperate in formulating, directing and controlling the acts, policies and practices thereof; and that their office and principal place of business is located at 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 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 Wool Products Labeling Act of 1939 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 Freiss Originals, Inc., a corporation, and its officers, and Isidore Reiss, Howard Reiss, Fred Reiss and Edward Reiss, 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 ladies' coats or other "wool products," as such products are defined in and subject to the Wool Products Labeling Act of 1939, do forthwith cease and desist from:

A. Misbranding such products by:

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

2. Failing to securely affix to or place on each such product a stamp, tag, 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 said percentages by weight of such fiber is five percentum or more, and (5) the aggregate of all other fibers;

(b) The maximum percentages of the total weight of such wool product of any non-fibrous loading, filling or adulterating matter;

(c) The name or the registered identification number of the manufacturer of such wool product or of 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:

B. Furnishing false guarantees that wool products are not misbranded under the provisions of the Wool Products Labeling Act, when there is reason to believe that the wool products so guaranteed may be introduced, sold, transported or distributed in commerce.

## 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 did, on the 9th day of July, 1959, become the decision of the Commission; and, accordingly:

*It is ordered.* That respondents Freiss Originals, Inc., a corporation, and Isidore Reiss, Howard Reiss, Fred Reiss, and Edward Reiss, 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  
FORBES & WALLACE, INC., ET AL.

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

*Docket 7477. Complaint, Apr. 15, 1959—Decision, July 9, 1959*

Consent order requiring operators of a department store in Springfield, Mass., to discontinue fictitious pricing and savings claims in advertising their merchandise, by such practices as designating excessive amounts as "list" and "regularly" and representing the offering price as a reduction therefrom.

*Mr. Brockman Horne* for the Commission.

*Mr. Milton J. Donovan*, of *Robinson, Donovan, Campbell & Madden*, of Springfield, Mass., for respondents.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) on April 15, 1959, issued its complaint herein, charging respondents with having violated the provisions of the Federal Trade Commission Act by the use of false, misleading and deceptive statements and representations in connection with the words "list" and "regularly," referring to prices and savings from prices of their general merchandise being offered for sale and sold to the public in the recent regular course of respondents' business. Respondents were duly served with process.

On May 15, 1959, respondents, their attorney, and counsel supporting the complaint entered into an Agreement Containing Consent Order To Cease And Desist, which was thereafter duly approved by the Commission's Bureau of Litigation and transmitted to the Hearing Examiner for his consideration. Having examined

said agreement and the complaint herein, the Hearing Examiner finds that the 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 Forbes & Wallace, Inc. is a corporation existing and doing business under and by virtue of the laws of the State of Massachusetts, with its office and principal place of business located at 1414 Main Street, in the City of Springfield, State of Massachusetts. Respondents Norman Wallace, Louis B. Howland, Lawrence R. Wallace, Ralph Little and Samuel R. Page are officers of the corporate respondent. They formulate, direct and control the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.

2. 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.

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

4. 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.

5. 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.

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

7. 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.

8. 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 and the said "Agreement Containing Consent Order To Cease And Desist" filed herein

the said agreement is hereby approved and accepted, and ordered filed if and when said agreement shall have become a part of the Commission's decision. The hearing examiner finds from said complaint and agreement that the Commission has jurisdiction of the subject-matter of this proceeding and of the respondents herein; that the complaint states a legal cause for action under the Federal Trade Commission Act both generally and in each of the particulars alleged therein; that this proceeding is in the interest of the public; and that the following order, as proposed in the said agreement is appropriate for the just disposition of all the issues in this proceeding as to all parties hereto, and should be and hereby is entered. Therefore,

*It is ordered,* That respondents Forbes & Wallace, Inc., a corporation, and its officers, and Norman Wallace, Louis B. Howland, Laurence R. Wallace, Ralph Little, and Samuel R. Page, 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 sale 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 any amount is the price of merchandise in respondents' trade area when it is in excess of the price at which said merchandise is usually and customarily sold in said trade area;

2. That any amount is respondents' usual and regular price of merchandise when it is in excess of the price at which said merchandise has been usually and regularly sold by respondents in the recent regular course of their business;

3. That any saving is afforded in the purchase of merchandise from the price in respondents' trade area unless the price at which it is offered constitutes a reduction from the price at which said merchandise is usually and customarily sold in said trade area;

4. That any saving is afforded in the purchase of merchandise from respondents' price unless the price at which it is offered constitutes a reduction from the price at which the merchandise is usually and customarily sold by respondents in the recent regular course of their business.

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 9th day of July, 1959, become the decision of the Commission; and, accordingly:

*It is ordered,* That respondents Forbes & Wallace, Inc., a corporation, and Norman Wallace, Louis B. Howland, Laurence R. Wallace, Ralph Little, and Samuel R. Page, 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.

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IN THE MATTER OF

HY FISHMAN, INC., ET AL.

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

*Docket 7355. Complaint, Jan. 12, 1959—Decision, July 14, 1959*

Order requiring a New York City furrier to cease violating the Fur Products Labeling Act by such means as advertisements in letters and brochures mailed to customers which failed to disclose that certain fur products contained artificially colored fur or to disclose the name of the country of origin of imported furs, represented fictitious amounts as the usual prices of fur products, and represented falsely that certain illustrated fur products were advertised in Glamour Magazine.

*Mr. Frederick J. McManus* for the Commission.

No appearances by or for the respondents.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) on January 12, 1959, issued its complaint herein, charging respondents with having violated the provisions of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, by falsely and deceptively advertising certain of their fur products, which acts and practices of respondents constitute unfair and deceptive acts and practices in commerce, in violation of the provisions of the Federal Trade Commission Act. Respondents were duly served with process.

No answer to the complaint was filed, and on May 15, 1959, a hearing was held in Washington, D.C., at which no appearance was made by or for the respondents. Accordingly, under §3.7(a) of the Commission's Rules of Practice for Adjudicative Proceedings, a proposed order was submitted by counsel supporting the complaint, and the hearing examiner finds that respondents herein are now in de-

fault; that the Commission has jurisdiction of the subject-matter of this proceeding and of the respondents herein; that the complaint states a legal cause for action under the Federal Trade Commission Act and the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, both generally and in each of the particulars alleged therein, which are as follows:

1. Hy Fishman, 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 312 Seventh Avenue, New York, New York.

Individual respondent Hy Fishman is an officer of the corporate respondent. He formulates, directs and controls the acts, practices and policies of the said corporate respondent. His office and principal place of business is the same as that of the corporate respondent.

2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondents have been and are now engaged in the introduction into commerce, and in the manufacture for introduction into commerce, and in the sale, advertising, and offering for sale, in commerce, and in the transportation and distribution, in commerce, of fur products; and have manufactured for sale, sold, advertised, offered for sale, transported and distributed fur products which have been made in whole or in part of fur which had been shipped and received in commerce as the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act.

3. Certain of said fur products were falsely and deceptively advertised in violation of the Fur Products Labeling Act in that respondents caused the dissemination in commerce, as "commerce" is defined in said Act, of certain advertisements, concerning said products, which were not in accordance with the provisions of §5(a) of the said Act and the Rules and Regulations promulgated thereunder; and which advertisements were intended to aid, promote and assist, directly or indirectly, in the sale and offering for sale of said fur products.

4. Among and included in the advertisements as aforesaid but not limited thereto were advertisements of respondents which appeared in letters and brochures mailed to customers in the State of New York and various other States of the United States.

By means of said advertisements and others of similar import and meaning, not specifically referred to herein, respondents falsely and deceptively advertised fur products in that said advertisements:

(a) Failed to disclose that fur products contained or were com-

posed of bleached, dyed or otherwise artificially colored fur, when such was the fact, in violation of §5(a)(3) of the Fur Products Labeling Act;

(b) Failed to disclose the name of the country of origin of imported furs contained in the fur products, in violation of §5(a)(6) of the Fur Products Labeling Act;

(c) Represented through such statements as "200 Marmot Stole" and "a luxurious \$1,000 Mink stole for mother" that such prices were the regular or usual prices of said fur products when in fact such prices were fictitious in that they were not the prices at which said fur products were usually sold by respondents in the recent regular course of business, in violation of §5(a)(5) of the Fur Products Labeling Act;

(d) Represented through illustrations of fur products, accompanied by the statement "as seen in Glamour," that the fur products thus depicted were regularly or recently advertised in Glamour Magazine, when such was not the fact, in violation of §5(a)(5) of the Fur Products Labeling Act.

5. The aforesaid acts and practices of respondents, as hereinabove found, are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, and constitute unfair and deceptive acts and practices in commerce under the Federal Trade Commission Act.

On the basis of the record herein, the Hearing Examiner concludes that this proceeding is in the interest of the public, and that the proposed order, as submitted by counsel supporting the complaint herein, is appropriate for the just disposition of all the issues in this proceeding as to all parties hereto. The proposed order is therefore accepted and hereinafter issued, as follows:

*It is ordered*, That Hy Fishman, Inc., a corporation, and its officers, and Hy Fishman, 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, transportation or distribution in commerce, of fur products, or in connection with the sale, manufacture for 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. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement, or no-

tice 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. That the fur product contains or is composed of bleached, dyed or otherwise artificially colored fur, when such is the fact;

2. The name of the country of origin of any imported furs contained in a fur product;

B. 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 products in the recent regular course of business;

C. Represents, directly or by implication, that any of respondents' fur products have been advertised in any advertising media, unless such advertising recently and regularly appeared, or unless the date thereof is set forth.

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 July, 1959, become the decision of the Commission; and, accordingly:

*It is ordered*, That respondents Hy Fishman, Inc., a corporation, and Hy Fishman, 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.

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IN THE MATTER OF

GOV-MART a/k/a GOVERNMENT EMPLOYEES'  
MERCHANDISE MART, INC., ET AL.

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

*Docket 7049. Complaint, Jan. 22, 1958—Decision, July 15, 1959*

Consent order requiring two associated retailing concerns in Seattle, Wash., engaged in selling to Government workers memberships in a purported buying service, to cease representing falsely that they were engaged in a non-profit enterprise in the sale of merchandise, misrepresenting their margin of profit, and claiming falsely that their enterprise was owned and operated by its members.

*Mr. John J. McNally* for the Commission.

*George Guttormsen, Esq.*, for *Guttormsen, Scholfield, Willits & Ager*, of Seattle, Wash., for Gov-Mart a/k/a Government Employees' Merchandise Mart, Inc., and trustees; and *Josef Diamond, Esq.*, for *Lycette, Diamond & Sylvester*, of Seattle, Wash., for Mission Supply Company and Charles E. Klock and Harry Mallen.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

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

On May 15, 1959, 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 March 31, 1959, 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 Gov-Mart a/k/a Government Employees' Merchandise Mart, Inc., is a corporation organized and existing under and by virtue of the laws of the State of Washington, with its principal offices and place of business located at 820 White-Henry-Stuart Building, Seattle, Washington. Its articles of incorporation state that such corporation is formed for educational, philanthropic and civic purposes. The former address of this respondent was 218 Wall Street, Seattle, Washington.

Respondents A. R. Early, Jack P. Scholfield, Clayton B. Willits, Thomas G. Hermans and Harold O. Willits are individuals and were the incorporators of respondent Gov-Mart a/k/a Government Employees' Merchandise Mart, Inc., and constitute its Board of Trustees. Respondent trustee A. R. Early resides at 2732 61st Street, S.E., Mercer Island, Washington. Respondent trustee Clayton B. Willits resides at 11538 Fremont, Seattle, Washington. Respondent trustee Thomas G. Hermans resides at 4540 20th N.E., Seattle, Washington. Respondent trustees Jack P. Scholfield and Harold O. Willits have their offices at 820 White-Henry-Stuart Building, Seattle, Washington.

Respondent Mission Supply Company is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Washington with its offices and principal place of business located at 218 Wall Street, Seattle, Washington.

Respondent Charles E. Klock is an individual and an officer of respondent Mission Supply Company and has his principal place of business at 218 Wall Street, Seattle, Washington.

Respondent Harry Mallen is an individual and was, until December, 1957, an officer of respondent Mission Supply Company. During January, 1958, respondent Harry Mallen severed all connection with and interest in respondent Mission Supply Company. His present address is 4127 Palisades Road, San Diego 16, California. The former address of this respondent was 218 Wall Street, Seattle, Washington. It is accordingly recommended that the complaint be dismissed as to the respondent as an officer of respondent Mission Supply Company.

2. Respondents admit all the jurisdictional facts alleged in the complaint, which was issued on January 22, 1958, and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

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

4. 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.

5. 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.

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

7. 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.

8. 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.

Order

56 F.T.C.

Upon due consideration of the complaint filed herein and the said "Agreement Containing Consent Order To Cease And Desist," said agreement is hereby approved and accepted and is ordered filed if and when said agreement shall have become a part of the Commission's decision. The hearing examiner finds from the complaint and the said agreement 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 legal causes 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 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 the respondents, Gov-Mart a/k/a Government Employees' Merchandise Mart, Inc., a corporation, and its officers and trustees, and A. R. Early, Jack P. Scholfield, Clayton B. Willits, Thomas G. Hermans, and Harold O. Willits, as trustees of said corporation; Mission Supply Company, a corporation, and its officers, and Charles E. Klock, as an individual and as an officer of respondent Mission Supply Company, and Harry Mallen, as an individual; and the said respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of any food, drugs, devices, or cosmetics, as "food," "drug," "device," and "cosmetic" are defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Disseminating, or causing to be disseminated, by means of the United States mails, or by any other means, in commerce as "commerce" is defined in the Federal Trade Commission Act, any advertisement for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of food, drugs, devices or cosmetics, which advertisement represents:

(a) That respondents, or any of them, are engaged in a non-profit enterprise in the sale of merchandise;

(b) That respondents, or any of them, sell to their customers at wholesale cost plus 5% or at any other purported margin of profit however expressed, where such is contrary to the fact;

(c) That any enterprise owned, controlled or operated for profit

is owned, controlled or operated by a non-profit organization or its members.

(2) Disseminating or causing to be disseminated, by any means, for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of food, drugs, devices or cosmetics in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any of the representations prohibited in Paragraph (1) above.

*It is further ordered,* That respondents and their officers, trustees, agents, representatives and employees, directly, or through any corporate or other device, in connection with the offering for sale, sale or distribution of any merchandise, or of memberships in or subscriptions to a service or organization for the sale of any merchandise to members or subscribers therein in commerce, as "commerce" is defined in the Federal Trade Commission Act do forthwith cease and desist from making, directly or indirectly, any of the representations prohibited by paragraph (1) above.

*It is further ordered,* That the complaint be, and the same hereby is, dismissed as to respondent Harry Mallen as an officer of respondent Mission Supply 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 15th day of July 1959, become the decision of the Commission; and, accordingly:

*It is ordered,* That the respondents, Gov-Mart a/k/a Government Employees' Merchandise Mart, Inc., a corporation, and A. R. Early, Jack P. Scholfield, Clayton B. Willits, Thomas G. Hermans, and Harold O. Willits, as trustees of said corporation, and Mission Supply Company, a corporation, and Charles E. Klock, individually and as an officer of said corporation, and Harry Mallen, as an individual, 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

## NOBLE AND NOBLE, PUBLISHERS, INC., ET AL.

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

*Docket 7424. Complaint, Feb. 26, 1959—Decision, July 15, 1959*

Consent order requiring publishers in New York City to cease selling home-study preparation books for United States Civil Service examinations without clearly disclosing when information contained in them was not up to date.

*Mr. Charles S. Cox* for the Commission.

*Alexander & Green*, of New York, N.Y., by *Mr. James D. Ewing*, for respondents.

## INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondents with violating the Federal Trade Commission Act by misrepresenting certain publications sold by them, the publications being designed for use by persons preparing for examinations for civil service positions in the United States Government. 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 agree-

ment is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Noble and Noble, Publishers, Inc., 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 67 Irving Place, New York, New York. Individual respondents J. Kendrick Noble, Sr., Stanley Noble and J. Kendrick Noble, Jr., are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent. Their address 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, and the proceeding is in the public interest.

#### ORDER

*It is ordered.* That respondent Noble and Noble, Publishers, Inc., a corporation, and its officers, and respondents J. Kendrick Noble, Sr., Stanley Noble and J. Kendrick Noble, Jr., individually and as officers of said corporate respondent, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the publication, advertising, offering for sale, sale and distribution of books entitled "Ward's Questions and Answers for Civil Service Clerical Positions" and "Ward's Questions and Answers for Civil Service Railway Postal Clerk and Clerk-Carrier Positions" in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from offering for sale or selling said books, unless the fact that the information contained therein is not up to date is clearly disclosed, or offering for sale or selling any other book of the same general nature, in which the information contained therein is not up to date, unless such fact is clearly disclosed.

#### 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 July, 1959, 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

## REINSTEIN-BERGER, INC., ET AL.

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

*Docket 7448. Complaint, Mar. 16, 1959—Decision, July 15, 1959*

Consent order requiring a New York City furrier to cease violating the Fur Products Labeling Act by listing on consignment invoices fictitious prices which were intended to help sell the products, and by failing to maintain proper records to substantiate such pricing claims.

*Mr. Garland S. Ferguson* for the Commission.

*Mr. Louis M. Weber*, of New York, N.Y., 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 pricing and savings claims and representations were based, in violation of §5(b)(2) and §5(a) of the Fur Products Labeling Act, Rule 44(e) of 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 Reinstein-Berger, Inc. 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 330 Seventh Avenue, New York, New York, and that individual respondents Abraham I. Reinstein and Daniel L. Reinstein (erroneously named in certain instances in the complaint as Daniel I. Reinstein) are officers of said corporation and formulate, direct, and control the acts and practices thereof, having the same address as that of the corporate respondent.

The agreement sets forth, in an affidavit attached thereto and made a part thereof, that on February 17, 1959, Alfred S. Berger severed his connection with the said corporation as an officer, director and stockholder thereof, and is no longer connected with the corporation in any capacity whatsoever, wherefore it is recom-

mended that the complaint, insofar as it relates to respondent Alfred S. Berger, be dismissed.

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 said 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 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 respondents Reinstein-Berger, Inc., a corporation, and its officers and Abraham I. Reinstein and Daniel L. Reinstein, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising, or offering for sale in commerce, or the transportation or distribution in commerce of fur products, or in connection with the sale, advertising, offering for sale, transportation or distribution of fur products which are 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. Falsely or deceptively invoicing fur products by:

1. Representing directly or by implication that the respondents' regular or usual price of any fur product is any amount in excess of the price at which the respondents have usually and customarily sold such product in the recent regular course of business;
2. Representing directly or by implication that any person's regular or usual price of any fur product is any amount in excess of the price at which such person has usually and customarily sold such product in the recent regular course of business;

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

C. Misrepresenting in any manner the savings available to purchasers of respondents' fur products;

D. Making claims or representations in advertisements respecting prices or values of fur products unless there is maintained by respondents full and adequate records disclosing the facts upon which such claims and representations are based.

*It is further ordered*, That the complaint be, and the same hereby is, dismissed as to Alfred S. Berger, individually and as an officer of said 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 15th day of July, 1959, become the decision of the Commission; and, accordingly:

*It is ordered*, That respondents Reinstein-Berger, Inc., a corporation, and Abraham I. Reinstein and Daniel L. Reinstein, individually and as officers of said corporation, shall, within sixty (60)

## Complaint

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.

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IN THE MATTER OF  
PANGBURN COMPANY, INC.

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

*Docket 7447. Complaint, Mar. 17, 1959—Decision, July 15, 1959*

Consent order requiring a manufacturer of chocolates in Fort Worth, Tex., selling almost exclusively to drugstores, to cease price discrimination in violation of Sec. 2(a) of the Clayton Act by allowing drug chain customers to combine purchases of their various outlets and thus receive preferential prices ranging from one percent on yearly purchases of from \$1,000 to \$1,999, to ten percent on \$10,000 and up, while competing non-chain customers—frequently buying in much greater volume than an individual chain outlet—received no discount at all or, at best, a much smaller one.

## 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) 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 Pangburn Company, Inc., hereinafter sometimes referred to as respondent or as respondent Pangburn, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Texas, with its principal office and place of business located at 1301 West Seventh Street, Fort Worth, Texas.

PAR. 2. Respondent Pangburn is engaged in the manufacture, sale and distribution of premium quality assorted chocolates and confections. Its chocolates are packed and sold in various assortments and sizes under its own brands. These chocolates are sold almost exclusively to drug stores located in various cities of approximately 42 states of the United States. Respondent does not employ jobbers or distributors but sells and distributes its products through its own sales force. Respondent employs approximately 36 salesmen in

connection with the sale of its products, and has a sales volume in excess of \$5,000,000 annually.

PAR. 3. In the course and conduct of its business in commerce, as "commerce" is defined in the aforesaid Clayton Act, respondent Pangburn is now and has been for several years selling and distributing its products to buyers located in the several States of the United States, and has transported, or caused such products, when sold, to be transported from its place of business in Fort Worth, Texas, or from its warehouses located elsewhere, to buyers located in various other States. There is and has been at all times mentioned herein, a continuous course of trade in commerce in said products across State lines between respondent and the respective buyers of said products. Said products were and are sold for use, consumption or resale within the various States of the United States, and at least one of the sales involved in each discrimination in price hereinafter alleged was in interstate commerce.

PAR. 4. Respondent now has and for the past several years has had in effect an annual cumulative quantity discount system ranging from one to 10 percent, based on the amount of the customer's annual purchases for the calendar year ending December 31 of each year as follows:

<i>Annual Purchases</i>	<i>Discount</i>
Up to \$999 -----	0%
\$1,000 to 1,999 -----	1%
2,000 to 2,999 -----	2%
3,000 to 3,999 -----	3%
4,000 to 4,999 -----	4%
5,000 to 5,999 -----	5%
6,000 to 6,999 -----	6%
7,000 to 7,999 -----	7%
8,000 to 8,999 -----	8%
9,000 to 9,999 -----	9%
10,000 and up -----	10%

These discounts or rebates are usually distributed at the end of the calendar year, or shortly thereafter to customers who qualify therefor. There are a few customers, such as Walgreen Drug Stores, Katz Drug Company, Al's Drug Stores and others, whose combined annual purchases for all their respective stores greatly exceed \$10,000 and to these customers respondent allows the 10% discount on a monthly basis, without waiting until the end of the year.

In determining the amount of discount or rebate the customer is to get, respondent allows chain stores to combine the purchases of their various outlets so as to qualify for the maximum discount, up to 10 percent. In a number of instances the chain is allowed

to combine the purchases of its outlets in more than one city, or even more than one state, in order to qualify for the maximum discount to their individual stores. In many instances the purchases of the individual stores of the chain are not sufficient to warrant any discount at all, but because of the policy of the respondent in fixing the rate of discount on the combined purchases of the chain's outlets, these individual stores thereof receive the maximum discount up to 10 percent.

In many instances respondent's independent or non-chain customers, whose individual purchases from respondent are considerably greater than the purchases of the individual outlet of the chain with whom they compete, get no discount at all, or at best not more than one, two, three or four percent, depending on their volume of purchases, while the individual outlet of the chain gets the maximum discount up to 10 percent. These independent or non-chain customers purchase the same grade and quality products from respondent as do the chain customers. In many instances the individual chain store and the independently owned store are located within a few blocks of each other, and are in active competition with each other for the consumer trade. Respondent's method of sale and delivery to the individual chain store customer is substantially the same as its method of sale and delivery to the independent or non-chain customer.

PAR. 5. Respondent in the allowance and payment of these discounts or rebates by means of its cumulative quantity discount system, as hereinabove outlined and described, has been for the past several years, and is now, discriminating in price between favored and non-favored purchasers of its products of like grade and quality, in commerce. The effects of such discriminations as set forth herein, may be substantially to lessen competition in the lines of commerce in which the purchasers are engaged, and to injure, destroy or prevent competition between purchasers receiving the benefit of such discriminatory discounts and the purchasers from whom such discounts are withheld.

PAR. 6. The aforesaid discriminations in price by respondent by means of its cumulative quantity discounts or rebates as hereinabove alleged and described constitute violations of subsection (a) of Section 2 of the aforesaid Clayton Act, as amended.

*Mr. Cecil G. Miles*, supporting the complaint.

*James & Conner*, by *Mr. George M. Conner*, of Fort Worth, Tex., for respondent.

## INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

On March 17, 1959, the Federal Trade Commission issued its complaint against the above-named respondent charging it with violating the provisions of Subsection (a) of Section 2 of the Clayton Act, as amended, in connection with the sale and distribution of its premium quality assorted chocolates and confections.

On May 22, 1959, the respondent and its attorney and counsel supporting the complaint entered into an agreement containing a consent order to cease and desist in accordance with Section 3.25(a) of the Rules of Practice and Procedure of the Commission. The agreement disposes of the matters complained about.

The pertinent provisions of said agreement are as follows: Respondent admits all jurisdictional facts; the complaint may be used in construing the terms of the order; the order shall have the same force and effect as if entered after a full hearing and the said agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission; and the record herein shall consist solely of the complaint and the agreement; respondent waives the requirement that the decision must contain a statement of findings of fact and conclusions of law; respondent waives further procedural steps before the hearing examiner and the Commission, and the order may be altered, modified, or set aside in the manner provided by statute for other orders; respondent waives any right to challenge or contest the validity of the order entered in accordance with the agreement and the signing of said 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.

The undersigned hearing examiner having considered the agreement and proposed order hereby accepts such agreement, makes the following jurisdictional findings, and issues the following order:

## JURISDICTIONAL FINDINGS

Respondent Pangburn Company, Inc., is a corporation 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 1301 West Seventh Street in Fort Worth, Texas.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent hereinabove named. The complaint states a cause of action against said respondent under the Clayton Act, as amended.

## ORDER

*It is ordered,* That the respondent Pangburn Company, Inc., a corporation, and its officers, representatives, agents, or employees, directly or through any corporate or other device, in connection with the sale and distribution of its assorted chocolates and confections, or other related products, in commerce as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Discriminating in price by means of an annual cumulative quantity discount system, or by using the combined purchases of the various outlets of a chain or group purchaser as a basis for determining any such discount, or by any other means, which results in selling to any one purchaser, its products of like grade and quality, at net prices higher than the net prices charged any other purchaser competing with the purchaser paying the higher price, in the resale of respondent's products; provided, however, that nothing herein shall prohibit the respondent from showing as a defense in any proceeding instituted for enforcement of this order that its differing prices make only due allowance for differences in the cost of manufacture, sale or delivery resulting from the differing methods or quantities in which such products are sold or delivered.

## DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having considered the hearing examiner's initial decision herein, filed May 29, 1959, accepting an agreement containing a consent order theretofore executed by the respondent and counsel in support of the complaint, service of which was completed on June 12, 1959; and

It appearing that through inadvertence the word "of" appears in the penultimate line of the order contained in the initial decision, whereas the corresponding word in the order agreed upon by the parties is "or"; and

The Commission being of the opinion that this clerical error should be corrected:

*It is ordered,* That the initial decision of the hearing examiner be, and it hereby is, modified by substituting the word "or" for the word "of" after the word "methods" in the next to last line of the order contained in said initial decision.

*It is further ordered,* That the initial decision, as so modified, shall, on the 15th day of July, 1959, become the decision of the Commission.

*It is further ordered,* That the respondent, Pangburn Company, Inc., shall, within sixty (60) days after service upon it of this deci-

sion, 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 contained in the aforesaid initial decision.

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IN THE MATTER OF

ARNOLD T. SMITH TRADING AS SMITH'S FUR SHOP

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

*Docket 7456. Complaint, Apr. 1, 1959—Decision, July 15, 1959*

Consent order requiring a Pittsburgh furrier to cease violating the Fur Products Labeling Act by setting forth on labels and invoices the name of an animal other than that producing certain fur, by misuse of the term "blended" on labels, by failing to set forth information with regard to "new fur" or "used fur" added to fur products that had been repaired or restyled, and by failing in other respects to comply with labeling and invoicing requirements.

*Mr. S. F. House* for the Commission.

INITIAL DECISION BY WALTER R. JOHNSON, HEARING EXAMINER

In the complaint dated April 1, 1959, the respondent is charged with violating the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act and the Rules and Regulations made pursuant thereto.

On May 18, 1959, the respondent entered into an agreement with counsel in support of the complaint for a consent order.

Under the foregoing agreement, the respondent admits the jurisdictional facts alleged in the complaint. The parties agree, among other things, that the cease and desist order there set forth may be entered without further notice and have the same force and effect as if entered after a full hearing and the document includes a waiver by the respondent of all rights to challenge or contest the validity of the order issuing in accordance therewith. The agreement further recites that it is for settlement purposes only and does not constitute an admission by the respondent that he has violated the law as alleged in the complaint.

The hearing examiner finds that the content of the agreement meets all of the requirements of Section 3.25(b) of the Rules of the Commission.

The hearing examiner being of the opinion that the agreement and the proposed order provide an appropriate basis for disposition

## Order

of this proceeding as to all of the parties, the agreement is hereby accepted and it is ordered that the agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission. The following jurisdictional findings are made and the following order issued.

1. Respondent Arnold T. Smith is an individual trading as Smith's Fur Shop, with his office and principal place of business located at 635 Penn Avenue, Pittsburgh, Pennsylvania.

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

## ORDER

*It is ordered,* That Arnold T. Smith, an individual trading as Smith's Fur Shop, or under any other name, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for 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, manufacture for 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. 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;

(7) The item number or mark assigned to a fur product.

B. Setting forth on labels affixed to fur product:

(1) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in abbreviated form;

(2) The term "blended" as part of the information required under Section 4(2) of the Fur Products Labeling Act, and the Rules and Regulations promulgated thereunder to describe the pointing, bleaching, dyeing or tip-dyeing of furs;

(3) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, mingled with non-required information;

(4) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in handwriting.

C. Failing to set forth the information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in letters of equal size and conspicuousness.

D. Failing to set forth the information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in the required sequence.

E. Setting forth on labels attached to fur products the name or names of any animal or animals other than the name or names provided for in Section 4(2) (A) of the Fur Products Labeling Act.

2. Falsely or 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 products 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 invoice;

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

(7) The item number or mark assigned to a fur product.

B. Setting forth on invoices pertaining to fur products the name or names of any animal or animals other than the name or names provided for in Section 5(b)(1) of the Fur Products Labeling Act.

C. Setting forth information required under Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in abbreviated form.

D. Failing to set forth the information required under Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations thereunder with respect to "new fur" or "used fur" added to fur products that have been repaired, restyled or remodeled.

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 July, 1959, become the decision of the Commission; and, accordingly:

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

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IN THE MATTER OF

QUALITY 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 7467. Complaint, Apr. 2, 1959—Decision, July 15, 1959*

Consent order requiring a furrier in New York City to cease violating the Fur Products Labeling Act by pricing fur products fictitiously on consignment invoices to customers by failing to maintain adequate records as a basis for such pricing claims, and by failing in other respects to comply with invoicing and labeling requirements.

*Mr. Kent P. Kratz*, supporting the complaint.

Respondents, *pro se*.

INITIAL DECISION OF JOHN LEWIS, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on April 2, 1959, charging them with having violated the Fur Products Labeling Act and the Rules and Regulations issued thereunder, and the Federal Trade Commission Act,

through the misbranding of certain fur products and the false and deceptive invoicing and advertising thereof. After being served with said complaint, respondents appeared and entered into an agreement, dated May 14, 1959, containing a consent order to cease and desist purporting to dispose of all of this proceeding as to all parties. Said agreement, which has been signed by respondents and by counsel supporting the complaint, and approved by the Director and Assistant Director of the Commission's Bureau of Litigation, has been submitted to the above-named hearing examiner for his consideration, in accordance with Section 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings.

Respondents, pursuant to the aforesaid agreement, have admitted all the jurisdictional allegations of 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. Said agreement further provides that 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 such agreement. It has been agreed 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 and that the complaint may be used in construing the terms of said order. It has also been agreed that the record herein shall consist solely of the complaint and said agreement, 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.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing consent order, and it appearing that the order provided for in said agreement covers all the allegations of the complaint and provides for an appropriate disposition of this proceeding as to all parties, said agreement is hereby accepted and is ordered filed upon this decision's becoming the decision of the Commission pursuant to Sections 3.21 and 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, and the hearing examiner, accordingly, makes the following jurisdictional findings and order:

1. Respondent Quality Furs, Inc., 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 333 Seventh Avenue, New York, New York.

Individual respondents Herman Suskind and Peter Manthus are

## Order

officers of said corporation and formulate, direct and control the acts, practices and policies of said corporation. Their office is located at the same address 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 Fur Products Labeling Act and the Federal Trade Commission Act, and this proceeding is in the interest of the public.

## ORDER

*It is ordered,* That respondents Quality Furs, Inc., a corporation, and its officers, and Herman Suskind and Peter Manthus, 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 sale, advertising or offering for sale, transportation or distribution, in commerce, of fur products, or in connection with the sale, manufacture for 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. 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.

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

2. Falsely or 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 products 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 invoice;

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

B. Setting forth information required under Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in abbreviated form.

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

D. Representing, directly or by implication, that any person's regular or usual price of any fur product is any amount in excess of the price at which such person has usually and customarily sold such product in the recent regular course of business.

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

(b) Represents, directly or by implication, that any person's regular or usual price of any fur product is any amount in excess of the price at which such person has usually and customarily sold such product in the recent regular course of business;

(c) Misrepresents in any manner the savings available to purchasers of respondents' fur products.

4. Making claims or representations in advertisements respecting prices or values of fur products unless there are maintained by respondents full and adequate records disclosing the facts upon which such claims and 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 15th day of July, 1959, 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.

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IN THE MATTER OF

BASIC BOOKS, INC., ET AL.

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

*Docket 7016. Complaint, Dec. 30, 1957—Decision, July 17, 1959*

Order requiring Chicago distributors of sets of reference books designated "Universal World Reference Encyclopedia," yearly supplements thereof, and other books, through house-to-house canvassers, to cease representing falsely through their said agents that they were making surveys; that they were making an introductory offer for advertising purposes and giving a set of books free to specially selected persons; that the encyclopedia was given free with purchase of the yearly supplements; that certain other books, selected by the customer, were given free with purchase of the encyclopedia and supplements; and that the offering price for the combined books was reduced and for a limited time only.

*Mr. William A. Somers* for the Commission.

*Mr. Herman A. Fischer* and *Mr. Thomas O. Flack* of *Campbell, Clithero and Fischer*, of Chicago, Ill., for respondents.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

In this proceeding respondent book sellers are charged, in substance, with having engaged in unfair and deceptive acts and practices and unfair methods of competition in commerce in violation

of the Federal Trade Commission Act. These acts and practices are alleged to have been performed by respondents' agents and salesmen by making false and misleading statements during house-to-house canvassing to obtain from members of the public contracts for the purchase of respondents' encyclopedias, yearly supplements thereto and other books.

In this initial decision the charges of the complaint are found to be sustained by the evidence as to all respondents other than Herman A. Fischer, and a cease and desist order appropriate to such findings is herewith issued. By reason of the dismissal as to him, however, such order does not imply that respondent Fischer or his successors in office are not bound by the general terms of the order against respondents' agents, representatives and employees in event of any violation of the order.

The material history of this proceeding is as follows: Complaint was filed herein on December 30, 1957, and after due service thereof had been had on all respondents, they joined in an answer filed on February 17, 1958. Thereafter hearings were held during 1958 at various places in several states, whereat evidence was adduced in support of the complaint. Such hearings were held in Chicago, Illinois, April 28; in Milwaukee and Green Bay, Wisconsin, April 29 and May 2, respectively; in Fort Wayne, Indiana, May 6; and in Minneapolis, Minnesota, June 9, at which last-mentioned time the Commission's case-in-chief was rested. Respondents thereafter presented their evidence in defense in Chicago on September 8. Both parties then in effect rested conditionally, dependent upon the outcome of a motion filed by respondents on June 2, 1958, before the Commission itself requesting access to certain alleged statements of the various consumer witnesses who had theretofore testified in this proceeding, which alleged statements were claimed to be in the Commission's confidential files. A similar motion had already been denied by the examiner on May 23. By its order dated September 15, 1958, the Commission denied said motion and remanded the matter to the hearing examiner for determination, and he then, by rulings dated October 17, 1958, made appropriate disposition thereof and ordered the case closed for taking evidence and the submission of the respective proposals of the parties by November 17, 1958. Such proposals were duly filed and have been considered.

It was stipulated in substance (R. 381) that the respondent Herman A. Fischer is the duly elected secretary of respondent corporation, Basic Books, Inc., his duties being merely those of taking minutes of the meetings of the Board of Directors and that if called as a witness he would testify that he had nothing to do with the

corporate policies and practices. Further, there is no evidence in the record to indicate that said respondent Fischer, who also appears as one of the counsel for all respondents in this proceeding has had anything to do with the policies of the corporation or the acts and practices complained of herein. The evidence does not sustain an order against him by name, either individually or officially, in this case in view of the well-established law on the subject. While this respondent made no special motion on the record to dismiss the complaint as to him, the examiner dismisses the complaint and proceeding as to respondent Fischer under the respondents' proposed general order of dismissal, which dismissal is formally set forth in the order herein. Accordingly any references to respondents in the subsequent portions of this decision do not include said respondent Fischer.

The methods and practices of door-to-door selling of books by agents of publishers is not a matter which is now presented to the Commission for the first time. See for example, *FTC v. Standard Education Society*, 302 U.S. 112. While each case must be determined upon its own factual merits, it is to be noted that several of the types of sales practices followed by respondents' salesmen herein are substantially identical with some of those found by the Supreme Court to be in violation of the Federal Trade Commission Act in said *Standard Education Society* case. See also, *Book-of-the-Month Club v. FTC* (C.A. 2, 1953), 202 F. 2d 486, 488-489, and *Standard Distributors v. FTC* (C.A. 2, 1954), 211 F. 2d 7.

The evidence presented in support of the complaint consists of the testimony of the respondent corporate officers Leonard Davidow and Nathan Landy with reference to the nature and extent of the corporate business, together with certain documentary evidence identified by them which relates to such matters, and the testimony of 15 consumer witnesses. Respondents' evidence consists of further testimony of respondent Landy and that of Emmett Cleveland, a salesmanager for the respondent corporation, and that of Aaron Huffines, one of its salesmen, together with a large number of sales contracts and other documentary exhibits. The real gist of the case is the evidence of the said consumer witnesses and that of respondents' said salesmen contradictory thereto with respect to the transactions had between such consumers and such salesmen. Repeatedly recognizing on the record the propriety of liberally allowing full cross-examination of consumer witnesses by respondents' counsel, the record clearly discloses that such counsel was permitted to indulge in very extensive and exhaustive cross-examination of all such witnesses over repeated objections.

The consumer witnesses were drawn in large part from segments of the population who were poor and who had but little education. Several were somewhat better educated, however; and were highly intelligent. Several of these consumer witnesses had little or no memory of the long-past transactions inquired about and one, Jose Tijerina, had such small knowledge of the English language that his business with respondents' agent had had to be transacted through his school-boy son. The hearing examiner has considered and evaluated very carefully the evidence of each of the consumer witnesses, and, either upon the basis of their contradictory, vague, uncertain or irresponsive testimony upon the matters which form the basis of the charges, or upon the utter failure of their evidence to sustain any of the charges, he has, in the findings he hereinafter makes, disregarded entirely the testimony of the following consumer witnesses: Helen Adams, Jose Tijerina, Carol Brunette, Vivian Hanson and Luella Jones. As to the remaining ten consumer witnesses, several were very clear and definite in all respects in their testimony, while others were able to give credible testimony on some one or more matters but were not clear or failed to testify as to others. Specific record reference is hereinafter made to that testimony, which upon mature deliberation the hearing examiner finds to have the weight and credibility to sustain each of the six separate charges of violation set forth in the complaint and in any view to outweigh the testimony of respondents' salesmen contradictory thereto.

Much of the evidence developed by respondents on the cross-examinations of the consumer witnesses and otherwise relates to the failure of some of them to comply with their contracts of purchase. Such matters are immaterial to this proceeding which is not to determine liability for, or to collect, private debts but is brought in the public interest to prevent in the future any type of unfair practices in commerce which are found to have occurred in the past. In this case the basic issues are whether or not respondents' agents made false and misleading representations to the public in the sale of books. Whether or not the consumer witnesses were in fact deceived or damaged thereby is not a controlling factor if such misrepresentations were in fact made.

The respondents' defenses were basically two. The first was that the salesmen selling books for Basic Books, Inc., never made such misrepresentations as were credited to them by the consumer witnesses. The second was that such salesmen were either independent contractors or subcontractors for whose acts in any event the respondents are in no manner legally responsible.

As to the second basic defense, it is now too well settled for extended discussion that technical rules of agency have no application to these false and misleading representation cases under the Federal Trade Commission Act. This whole subject has been recently most excellently and thoroughly reviewed by the Ninth Circuit in *Goodman v. FTC* (1957), 244 F. 2d 584, 587-593, 604, where the earlier cases are ably discussed and analyzed. In short, the Court pertinently held (*id.* p. 593): "So, regardless of the manner in which these salespersons may have been designated in contracts between them and the petitioner [respondent before the FTC] or were carried on his books so far as the public was concerned, they were his authorized agents and acted not only within the apparent but also within the actual scope of their authority. And the Commission was right in holding him responsible for their acts." It is true there is evidence that respondents here did subscribe to a certain code of sales ethics adopted by certain book publishers and sellers and that they endorsed its principles to their agents, but this is immaterial since in fact it is found that such agents did misrepresent many matters to the public in effecting or attempting to effect their sales. As the Seventh Circuit so aptly said in *International Art Co. v. F.T.C.* (1940), 109 F. 2d 393, 398: "We know no theory of law by which the company could hold out to the public these salesmen as their representatives, reap the fruits from their acts and doings without incurring such liabilities as attach thereto." The hearing examiner therefore rejects this second basic defense.

The case therefore turns, as hereinbefore essentially stated, upon the careful weighing of the relevant evidence of those consumer witnesses whose testimony has not been wholly rejected by the hearing examiner as against the testimony of respondents' salesmen where there is contradiction and in also fairly evaluating the uncontradicted testimony of a number of the consumer witnesses, which cross-examination did not destroy or weaken, but rather tended to materially strengthen.

The respondents' second defense is based upon the testimony of their salesmanager Cleveland and their book salesman Huffines, who worked under Cleveland. They were both mature men, experienced in the door-to-door book selling business, Cleveland since 1923 (R. 408) and Huffines since 1927 (R. 461). They had sold respondents' books since 1954 and 1955, respectively (R. 408, 447). Cleveland sold some 300 combination encyclopedia sets, such as those in question here, per year (R. 408) and Huffines, about 200 such sets in some 18 or 19 months (R. 449). Prior to testifying Cleveland had gone over the testimony of the consumer witnesses he had sold and

had revisited the places of sale to refresh his memory, which he claimed was not good as to names but practically infallible as to the places and events of his numerous sales, saying, "I have a phenomenal memory" (R. 425). Huffines, while not quite so positive, nevertheless recalled to mind and testified as to those witnesses with whom he had dealt. Both Cleveland and Huffines categorically denied making any of the misrepresentations accredited to them by the respective consumer witnesses. Cleveland also testified at great length as to his plan of sales approach and closing methods in book selling, denying any use of the false and misleading language testified to by those consumer witnesses whom he dealt with. Cleveland testified in detail also concerning his dealings with the consumer witnesses Harbor, Pazera, McVane and Mrs. Tebo. He also testified as to his transactions with the two witnesses, Tijerina and Mrs. Brunette, whose entire testimonies, however, have been rejected by the examiner. Huffines testified as to his transactions with the consumer witnesses, Mrs. Johnson, Mrs. Hanson and Mrs. Ninneman. The examiner has also rejected the testimony of Mrs. Hanson. The grounds of his rejection of such consumer witnesses' testimony, as already stated, was upon its own inherent weakness or irrelevancy. For reasons hereinafter set forth, after due consideration, he has also rejected *in toto* the testimony of both Cleveland and Huffines.

Several of the consumer witnesses were not contradicted by the salesmen of respondents with whom they dealt. They are Margaret Bird, Helen Adams, Delores Grey, Luella Jones, Howard D. Rasmussen, and Ernest B. Sens. The hearing examiner, however, has also rejected the testimony of two of these uncontradicted witnesses, Mrs. Adams and Mrs. Jones, as already stated because of its inherent weakness or irrelevancy.

In observing and weighing the testimony of all of the consumer witnesses, the hearing examiner has been greatly impressed with their honesty, although, of course, he has rejected the testimony of some for other good reasons. None of them evinced any desire to testify unfairly against respondents, in fact several appeared to be satisfied with the books they purchased. Within their respective natural limitations, each seemed to try to answer the questions of counsel for both sides fairly and to the best of his or her ability. Several of the witnesses were quite intelligent, and repeated and long cross-examinations failed to shake any of their testimony which was strongly adverse to respondents.

It would serve no useful purpose to extend in detail the evidence of any of such consumer witnesses or of respondents' two salesmen

Cleveland and Huffines. But the examiner's reason for doubting the veracity and credibility of these two salesmen does not lie entirely in the intangible elements of his personal observation of them during the time they testified. It is true they were book salesmen but that business is certainly not *per se* an illegal or improper business. Each of these two salesmen made a bad slip or two in the course of his otherwise smooth testimony which emphatically raises a disbelief in his veracity. Cleveland swore positively on cross-examination that he remembered his transaction with the witness Pazera so well because, "Mr. and Mrs. Pazera do not speak English and I sold that order through an interpreter who was the son, and he explained it to mother and dad, in Spanish or in Italian," etc. (R. 429). He emphatically repeated this again later on in his testimony saying Pazera's letter complaining to the book company that he was supposed to get certain books in the deal for nothing was "a misunderstanding on his part of not understanding the English language, or his interpreter not explaining fully, his son being the interpreter \* \* \* an older son \* \* \* 14 or 15 years old, a high school student \* \* \*" (R. 439). In a vain effort to rehabilitate this witness with his self-styled "phenomenal memory," respondents' counsel asked "You spoke of one family speaking Spanish in or near Kenosha, one was Pazera and one with Tijerina. Do you remember if you had to have an interpreter both times or only once?" Cleveland answered, "I believe I had interpretation help on both occasions." (R. 442)

Of course, Jose Tijerina was unable to talk business to Cleveland because of his limited knowledge of English and his 13-year old son acted as interpreter (R. 159 *et seq.*, esp. 167). As already stated, the examiner has rejected Tijerina's testimony in so far as it has to do with establishing the charges. But as to the witness Stanley Pazera, Cleveland, to be most charitable, is as mistaken as it is possible for any witness to be. Pazera was on the witness stand before the examiner for about one-half hour. He had no interpreter and needed none. He was an excellent witness, intelligent and capable of using fairly good English and never using broken English. To read his testimony in full (R. 109-137) is certainly convincing that he was not a person who had no substantial working knowledge of English. He was clear and responsive in his answers. No question or suggestion of either examining counsel or any accent or expression of Pazera himself indicated or now indicates to the examiner that he was not competent to discuss matters in English. Pazera also withstood successfully a long and searching cross-examination. In fact the testimony of Cleveland on the point of Pazera's lan-

guage ignorance was as amazingly unbelievable to the examiner as it was to respondents' counsel. There is no evidence anywhere that Pazera had a son of high school age or that any one else acted as an interpreter in his business transaction with Cleveland. The only reference to any children in the Pazera home at the time of Cleveland's visit there was as to two small children "messing up his [Cleveland's] stuff all over the floor" and Mrs. Pazera "trying to get the kids out of his [Cleveland's] hair." (R. 133-34)

It is most obvious that there is no truth in Cleveland's testimony as to the Pazera incident and although there are other good reasons for so doing the examiner for that reason alone is justified in rejecting his testimony in its entirety on the "*falsus in uno*" doctrine. He does wholly reject Cleveland's evidence as to his methods of selling and his said specific transactions with the several consumer witnesses as wholly unworthy of belief.

The witness Aaron Huffines was somewhat less positive and assertive than Cleveland. But his testimony must also be rejected as to his said specific dealings with the witnesses Johnson, Hanson and Ninneman, all married women living in or near Marinette, Wisconsin. The examiner has rejected Mrs. Hanson's testimony for reasons already stated. Huffines had a rather contemptuous view of the worthiness of those with whom he dealt. As to the sales he made, Mrs. Hanson "was awfully easy to sell. She almost took the books away from me" (R. 453). And with respect to Mrs. Johnson and her husband, "These people just buy anything" (R. 459). "Mrs. Hanson was especially easily sold and Mrs. Johnson was not so hard; people just buy things and don't expect to pay for them." The hearing examiner at that point made inquiry: "There is a mystery about this book-selling \* \* \* How can you make any money in this field if these people are so easily sold and won't pay for them?" Huffines then testified: "The policy of Basic Books, Inc. is very liberal. They have a set of books for poorer people \* \* \* the poor people want these books and they want to buy these books. They will do anything for their children \* \* \* Basic Books, I imagine, lose a lot of money; I don't know \* \* \*." (R. 463-464). The examiner simply does not believe the testimony of a man who says he spends a great deal of time selling poor people books, which he knows they do not intend to pay for. If such sales are made merely to get the first sales commission, such a salesman is not honest with his employer and if he wantonly unloads books on people who are as eager, easy, and gullible as he indicates these buyers were, his standards of fair dealing do not measure up to the high ethical standards which his employer and he purport to live by. The

hearing examiner is not "easy to sell" on the idea that these housewives and working men, however humble and poor their lot in life may be, were in no way induced to buy books by some of the alluring statements that Mrs. Johnson and Mrs. Ninneman testified this salesman Huffines made to them. The testimony of Huffines is therefore rejected as not fair or credible. Books sold from door to door do not sell themselves almost automatically because people love their children or because book companies are eleemosynary institutions as Huffines suggests.

The salesmen who dealt with Mrs. Bird, Mrs. Grey and Messrs. Rasmussen and Sens were not called to controvert their testimony, and it therefore has been considered in each instance in its entirety for what it was worth. That of Rasmussen was very complete and credible, and, while the other three gave less detailed evidence, insofar as it covered the material issues it has been found fully credible. While also uncontradicted by any salesman, however, the testimony of Helen Adams and Luella Jones has been rejected for reasons hereinbefore stated.

The hearing examiner has given full, careful and impartial consideration to all the evidence presented and to the fair and reasonable inferences arising from all facts established by the evidence. He has carefully considered the pleadings and has found the facts to be true which are alleged in the complaint and admitted by the answer. But as to the material allegations of the complaint which are denied by the answer the burden of proof has always been on counsel supporting the complaint to establish such facts under §7(c) of the Administrative Procedure Act. Therefore, upon consideration of all the material issues of fact presented on the whole record and from his personal observation of the conduct and demeanor of the witnesses, the hearing examiner finds that the Commission's case under its complaint has been established both generally, and also specifically, as to the six particular charges of misrepresentation by respondents' salesmen and agents. All issues alleged in the complaint which are in dispute have been established by a preponderance of reliable, probative and substantial evidence. The specific findings of fact made by the hearing examiner on all issues in the case are as follows:

Respondent Basic Books, Inc., is a corporation organized and existing under and by virtue of the laws of the State of Illinois, with its home office and principal place of business located at 153 North Michigan Avenue, Chicago, Illinois. Respondents Leonard Davidow, Nathan Landy and Herman A. Fischer are President, Executive Vice President and Treasurer, and Secretary, respectively,

of respondent corporation. Their address is the same as that of the respondent corporation. The individual respondents Leonard Davidow and Nathan Landy, at all times mentioned herein, promulgated, directed and controlled the policies, acts and practices of the respondent corporation. These facts are established by admission in the answer and by testimony of the respondents. Their contention that their salesmen are independent contractors for whose acts and statements respondents have no liability is contrary to law as stated earlier in this decision.

Respondent Basic Books, Inc., operating under the direct supervision and control of the individual respondents Davidow and Landy, is now, and has been for more than two years last past, engaged in the business of selling and distributing sets of reference books designated Universal World Reference Encyclopedia, yearly supplements thereof, research services and other books. The method used by respondents in selling said books is to employ agents, field supervisors and salesmen, on a commission basis, to make a house-to-house canvass and obtain purchase contracts. When contracts for the purchase of books are obtained they are sent to the home office of the respondent corporation and the books are shipped by it direct to the purchasers. Respondents admit these facts by their answer and evidence, contending, however, they are not bound by the acts and statements of independent contractor salesmen, which defense has no legal basis. The respondents advertise for and hire all salesmen and they alone can terminate their contracts. All dealings by the public are with respondents through salesmen. The purchase contracts and subsequent dealings with regard thereto are had by purchasers with Basic Books, Inc., and not with the salesmen as separate legal entities. The corporate respondent also controls the credit arrangements and holds the title to any unpaid for merchandise.

In the course and conduct of their business as above described, respondents cause their books, when sold, to be shipped and transported from their place of business in the State of Illinois to purchasers thereof at their locations in other States of the United States. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in commerce in said books, as "commerce" is defined in the Federal Trade Commission Act. It is undisputed that the business done by Basic Books, Inc., in interstate commerce is very substantial. Respondent Landy testified that of some \$300,000 worth of annual business in 1957 and somewhat higher in prior years, about 80 percent thereof consisted of sales and deliveries in other states than Illinois. After sales have been made in the field

and are approved in Chicago, respondents ship the books to the purchaser. Business is so done in some ten or more states. It also appears that Davidow and Landy are officers in other book publishing or book sales companies, some 15 or more in number, doing an annual business of about 20 million dollars in sales.

In the course and conduct of their business and to induce the purchase of their said books, respondents, through their agents and salesmen, have made a number of statements concerning their business methods, the price of their books and other matters. Such statements are:

(1) That respondents were engaged in making surveys for various purposes. (See the testimony of Barbara Tebo, R. 232, 235-237 and 241; and that of Howard D. Rasmussen, R. 305, 307, 322-323, 357 and 359-360. The Better Business Bureau also received some 88 complaints during a part of 1955 and all of 1956 that respondents' salesmen were reported to have used the "survey" approach. This was respondents' own evidence, Respondents' Exhibits 27-A to 30-D, inclusive.)

(2) That they were making an introductory offer of said books for advertising purposes and that said books are given free to a selected number of persons. (See the testimony of Clifford D. Harbor, R. 73; of Stanley Pazera, R. 110 and 125; of Dorothy Johnson, R. 187; of Shirley Ninneman, R. 252 and 258; of Howard D. Rasmussen, R. 318-319; and of Ernest B. Sens, R. 370, 375 and 378. Respondents' Exhibits 27-A to 30-D, inclusive, show 201 complaints were received by the Better Business Bureau that respondents' salesmen had improperly claimed books were free in their sales approaches during part of 1955 and during 1956.)

(3) That the prospective customer had been specially selected to receive a set of said books. (See the testimony of Clifford D. Harbor, R. 73 and 75-76; of Dorothy Johnson, R. 183 and 187; of Howard D. Rasmussen, R. 307, 316, 322-323, and 359-360; and of Ernest B. Sens, R. 370. The "specially selected" customer approach was improperly used by respondents' salesmen in 1956. See Respondents' said Exhibits 27-A to 30-D, inclusive.)

(4) That the encyclopedia was given free with the purchase of the yearly supplements. (See the testimony of Clifford D. Harbor, R. 73 and 76-77; of Stanley Pazera, R. 110-111, 113, 118-119, 123, 125-126, 130 and 134; of Barbara Tebo, R. 233-234, 239, 246 and 250; of Shirley Ninneman, R. 252, 254 and 258; and of Howard D. Rasmussen, R. 308, 317-320, 343-344, 350, 357, and 359-360. Said Respondents' Exhibits 27-A to 30-D, inclusive, show

that misrepresenting "books as free" was reported to have occurred on the part of respondents' salesmen 201 times during 1956.)

Other evidence in the record indicates that a 10-year average cost of the books offered in combination was put forth by Cleveland to prospective purchasers and buyers thereof (see Commission's Exhibit 3A to -D), and the "pitch" of low-cost average over a 10-year period was stressed by respondents in their salesmen's manual, "Information for Dealers," Commission's Exhibit 1-B. These documents therefore tend to support the testimony of the consumer witnesses on the "free" encyclopedia and other books issue and that they thought it was the annual supplement for 10 years they were paying for.

(5) That certain other books, to be selected by the customer, were given free with the purchase of the encyclopedia and yearly supplement. (See the testimony of Stanley Pazera, R. 119, 126 and 130; of Delores Grey, R. 140, 156 and 158; of Shirley Ninneman, R. 261; and Howard D. Rasmussen, R. 320, 343, 357 and 359-360.) (See also Respondents' said Exhibits 27-A to 30-D, inclusive.)

(6) That the price at which the encyclopedia, supplements and other books were being offered was a reduced price from the regular price and was for a limited time only. (See the testimony of Margaret Bird, R. 50-53; of Delores Grey, R. 141-142 and 152-153; of Dorothy Johnson, R. 184; of William McVane, R. 211; and of Howard D. Rasmussen, R. 309-310. See also Respondents' said Exhibits 27-A to 30-D, inclusive.)

The foregoing statements made by the respondents, in the manner and by the means hereinbefore described, were and are false, misleading and deceptive. This is evidenced generally by respondents' repeated attempts to have the consumer witnesses admit that under their respective contracts they knew they were paying for all books in the combination offer. In paragraph 5 of their answer respondents also specially plead that the prices of their books were a combination price for all, but much less than the separate retail prices of such books would add up to. Respondents' price lists, Commission's Exhibits 2 and 3, also reveal that there were no free books in any combination book sale offered by respondents during the period covered by the testimony of the consumer witnesses and within the more than two-year period prior to January, 1958, covered by the complaint.

More specifically the said foregoing six types of statements of respondents' salesmen were false since the record herein establishes, and it is admitted frankly by respondent Landy, that the respondents do not engage in surveys, introductory advertising offers to se-

lected persons, the giving of free books or granting specially reduced prices to selected customers. It is therefore found that in truth and fact:

(1) Respondents, or any of them, are not now, and never have been, engaged in making surveys of any nature;

(2) The offer to sell their books was not an introductory offer nor for advertising purposes, nor were any of their books given free to selected persons, or to any other persons, as in introductory offer or for advertising purposes, or for any other reason;

(3) Prospective purchasers were not specially selected. On the contrary, respondents' books were and are available for purchase by anyone desiring to purchase them;

(4) The encyclopedia was not given free with the purchase of the yearly supplements, the price charged being for the combination;

(5) Books selected by the purchaser were not given free with the purchase of the encyclopedia and yearly supplements, as the price of these books was included in the price of those purchased;

(6) The price at which the encyclopedia, supplements and other books was offered for sale was not a reduced price but was the regular and usual selling price, and the offer was not for a limited time but was a continuous offer.

It is pleaded in paragraph 6 of the complaint that respondents, in the conduct of their business, were and are in competition, in commerce, with other corporations and with firms and individuals engaged in the sale of encyclopedias, yearly supplements and other books. Respondents in their answer, paragraph 6, admit these allegations and such facts are therefore found to be true.

From all the foregoing facts established on the record, it is necessarily inferred and found that the use by respondents of the foregoing false, misleading and deceptive statements and representations had, and now has, the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the mistaken and erroneous belief that such statements and representations were and are true and into the purchase of substantial quantities of their said books by reason thereof. As a result thereof, trade in commerce has been unfairly diverted to respondents from their competitors and substantial injury has thereby been done to competition in commerce.

#### CONCLUSIONS OF LAW

Out of the foregoing findings of fact the following conclusions of law are drawn by the hearing examiner:

Order

56 F.T.C.

1. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the person of each of the respondents;

2. This proceeding is to the interest of the public and such interest is specific and substantial;

3. The acts and practices of the respondents, as hereinabove found, were and are all to the prejudice and injury of the public and of the respondents' competitors and constituted and now constitute unfair and deceptive acts and practices and unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

## ORDER

*It is ordered.* That respondent Basic Books, Inc., a corporation, and its officers, and Leonard Davidow and Nathan Landy, as officers of respondent corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of books or other publications, or any 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 indirectly:

1. That respondents, or any of them, are engaged in making surveys for any purpose;

2. That the offer of sale of respondents' books is an introductory offer or is made for advertising purposes;

3. That any of respondents' books are given free to selected persons, or to any other persons, as an introductory offer or for advertising purposes or for any other reason;

4. That prospective purchasers of any books sold by respondents are specially selected;

5. That the Universal World Reference Encyclopedia or any similar publication sold by respondents is given free by respondents with the purchase of any yearly supplement or supplements thereto;

6. That books, or any other publications of respondents or other things of value selected by a purchaser in connection with the purchase of the said encyclopedia and its yearly supplements are given free to such purchasers;

7. That any price at which respondents' books or other publications are offered for sale is a reduced price, unless it is based upon and less than the price at which such books or other publications are regularly and usually sold by respondents;

## Opinion

8. That respondents' offer of books or other publications at a reduced price is limited as to time.

*It is further ordered,* That the complaint be, and the same hereby is, dismissed as to respondent Herman A. Fischer in his individual capacity but not in his capacity as an officer of respondent Basic Books, Inc., a corporation.

## OPINION OF THE COMMISSION

By KERN, *Commissioner*:

The complaint in this matter charges respondents with violation of the Federal Trade Commission Act. The hearing examiner in his initial decision held that the allegations of the complaint were sustained by the evidence and ordered respondents (except for an individual respondent against whom the complaint was dismissed) to cease and desist from the practices found to be unlawful. Respondents have appealed from the initial decision and from certain rulings by the hearing examiner.

In substance, the complaint alleges that respondents, in connection with the sale and distribution of books, have falsely represented through their salesmen and agents:

- (1) That they were engaged in making surveys for various purposes;
- (2) That they were making an introductory offer of said books for advertising purposes and that said books are given free to a selected number of persons;
- (3) That the prospective customer had been specially selected to receive a set of said books;
- (4) That the encyclopedia was given free with the purchase of the yearly supplements;
- (5) That certain other books, to be selected by the customer, were given free with the purchase of the encyclopedia and yearly supplement; and
- (6) That the price at which the encyclopedia, supplements and other books were being offered was a reduced price from the regular price and was for a limited time only.

Respondents do not claim in their brief that the above representations are true. They argue, however, that there is insufficient evidence in the record to support the findings that such representations were in fact made by their salesmen and agents. This argument consists primarily of a broad, general attack on the hearing examiner's analysis of the testimony of various consumer witnesses called in support of the complaint. It also questions his

interpretations of certain documentary evidence adduced by respondents and his refusal to receive the evidence of certain purchasers who would testify that no misrepresentations had been made to them by respondents' salesmen.

In order to prove that respondents' salesmen had made the alleged misrepresentations, counsel supporting the complaint presented fifteen consumer witnesses who testified as to their conversations and transactions with these salesmen. The hearing examiner considered and evaluated the testimony of each of these witnesses in his opinion. He rejected the testimony of five of them, but concluded that the evidence given by the remaining ten had the weight and credibility to sustain each of the six charges of violation set forth in the complaint and to outweigh the testimony or respondents' salesmen contradictory thereto. A hearing examiner confronting witnesses is peculiarly qualified to determine credibility of witnesses and the weight to be given their testimony. We believe that the record supports his evaluation. For the same reason we disagree with respondents' claim that the hearing examiner erred in rejecting the testimony of two of respondents' salesmen witnesses, Cleveland and Huffines, as being unworthy of belief.

As evidence of their attempt to prevent misleading practices respondents introduced reports by the National Better Business Bureau of complaints made by members of the public against salesmen of some 54 companies, including respondents Basic Books, Inc., engaged in the sale of books. Respondents contend that the hearing examiner misinterpreted these documents, being of the opinion that all the complaints therein related to Basic Books, Inc. But the hearing examiner does not rely upon these reports as a major ground for justifying his findings, as contended by respondents. Respondents' argument in this respect is without merit. The findings as to deceptive practices are supported by the testimony of consumer witnesses. On page 6 of his initial decision the hearing examiner makes the following comment respecting the evidence.

The case therefore turns, as hereinbefore essentially stated, upon the careful weighing of the relevant evidence of those consumer witnesses whose testimony has not been wholly rejected by the hearing examiner as against the testimony of respondents' salesmen where there is contradicted testimony of a number of the consumer witnesses, which cross-examination did not destroy or weaken, but rather tended to materially strengthen.

Another point raised by respondents concerns the hearing examiner's refusal to admit the testimony of witnesses who would testify that they had not been deceived by respondents' salesmen. Contrary to respondents' contention, such testimony would not create any inference that false representations had not been made on

other occasions and would not tend to refute the direct evidence that such false representations had, in fact, been made. Since the evidence offered by respondents was wholly immaterial, the hearing examiner did not err in excluding it.

Respondents also contend that the hearing examiner erred in refusing to permit them to cross examine witnesses Johnson and Rasmussen as to conversations between these witnesses and the investigating attorney of the Federal Trade Commission. Examination of the record shows that a full and extensive cross examination of Rasmussen was had as to his conversation with the Commission's investigator. Neither Rasmussen nor any of the other witnesses who were cross examined on the same subject indicated that their testimony had been influenced in any manner by the questions asked by the investigating attorney. As to witness Johnson we think that any hope respondents may have had that she would repudiate her direct testimony by stating that it had been based on ideas planted in her mind by the investigator is too remote and improbable under the circumstances to constitute a basis for a claim that respondents had been prejudiced by the hearing examiner's ruling.

Respondents also argue that they should have been allowed to show that the witness Harbor was biased against them by reason of the fact that they had placed his account in the hands of a collection agency. The hearing examiner ruled that further testimony from the witness would be superfluous and counsel for respondents agreed with the examiner on this ruling. Under all the circumstances disclosed by the record no injury was done to the respondents by the hearing examiner's ruling.

Respecting another of respondents' objections the hearing examiner refused to order production of documents in the Commission's files on the ground that there was no evidence in the record of the existence of any written statements of the witnesses. We are of the opinion that this ruling likewise was correct. It was incumbent upon respondents to show that the written statements which they requested were in existence. *Communist Party of America v. Subversive Activities Control Board*, 254 F. 2d 314. There is nothing in the testimony of the various witnesses to indicate that they had furnished written or signed statements to the investigating attorney with the possible exception of witness Pazera. On this point, that witness' testimony appears extremely vague and indefinite regarding any statement whether oral or otherwise. Furthermore, respondents did not ask Pazera or any of the other witnesses whether they had executed a written statement.

Respondents also contend that even if Pazera's statement was oral and had been written by the investigator, it should still have been made available to them. We think that an answer to this argument can be found in our ruling in *Pure Oil Company*, Docket No. 6640. We stated in that case that a report by an attorney-examiner of a conversation with a witness could not be successfully used to impeach the testimony of that witness. A similar ruling was made in *Communist Party of America, supra*; and in recent decisions interpreting the so-called "Jencks" Act, 18 U.S.C. Sec. 3500, the Supreme Court held that an investigator's summary of an oral statement by a witness should not be produced for impeachment purposes. (*Rosenberg v. U.S.* No. 451, U.S. Sup. Ct., June 22, 1959; *Palermo v. U.S.*, No. 471, U.S. Sup. Ct., June 22, 1959.)

Respondents also argue that issuance of a cease and desist order is not in the public interest in view of the efforts of respondents to prevent misleading practices. The record discloses, however, that any efforts which respondents may have made to prevent misrepresentations by their agents were unsuccessful. Since the purpose of this proceeding is to stop practices found to be unlawful, we think that the public interest will best be served by issuance of an order to cease and desist.

Respondents further object to the form of the order. They argue that in view of the Commission's holding in *Kay Jewelry, Inc.*, Docket No. 6445, the respondents Landy and Davidow should not be included in the order in their individual capacities solely on the basis of a finding that as officers of Basic Books, Inc., they formulate, direct and control the policies, acts and practices of the corporate respondent. We are of the opinion that respondents are correct on this point. Since there has been no showing of circumstances which would necessitate the issuance of an order against Landy and Davidow in their individual capacities, the order should be modified to run against these respondents only in their capacities as officers of the corporation.

The order dismisses the complaint as to respondent Fischer, both individually and as an officer of respondent Basic Books, Inc. Although we believe the hearing examiner was correct in dismissing the complaint as to this respondent in his individual capacity, no showing has been made to justify the dismissal as to him in his official capacity. The order should therefore be modified to dismiss the complaint as to respondent Fischer as an individual but not as an officer of the corporation.

To the extent indicated herein, respondents' appeal is granted and in all other respects is denied. As modified in accordance with

this opinion, the initial decision is adopted as the decision of the Commission. An appropriate order will be entered.

Chairman Kintner did not participate in the decision of this matter.

## FINAL ORDER

This matter having been heard by the Commission upon respondents' appeal from the hearing examiner's initial decision; and

The Commission, for the reasons stated in the accompanying opinion, having granted in part and denied in part the aforementioned appeal, and having modified the initial decision to the extent it is contrary to the views expressed in the said opinion:

*It is ordered that,* The order to cease and desist contained in the initial decision be modified by deleting from the preamble thereof the words "individually and" immediately following the names of respondents Leonard Davidow and Nathan Landy, and by striking therefrom the last paragraph and substituting therefor the paragraph:

*"It is further ordered,* That the complaint be, and the same hereby is, dismissed as to respondent Herman A. Fischer in his individual capacity but not in his capacity as an officer of respondent Basic Books, Inc., a corporation."

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

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

Chairman Kintner not participating.

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IN THE MATTER OF  
SWISS WATCH CASE CORP. ET AL.

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

*Docket 7040. Complaint, Jan. 15, 1958—Order, July 24, 1959*

Order dismissing, as unproven by the record, complaint charging a Milford, Conn., importer and assembler of watch cases with falsely implying Swiss manufacture and failing to disclose Chinese origin, and with misrepresenting the cases by stamping thereon such inscriptions as "Cased and timed by precision watch craftsmen," "water resistant," "stainless steel back," etc.

Before *Mr. Frank Hier*, hearing examiner.  
*Mr. Harry E. Middleton, Jr.* for the Commission.  
*Bernblum & Clarke*, of Milford, Conn., and *Mr. B. Paul Noble*,  
of Washington, D.C., for respondent.  
*Cummings, Sellers, Reeves & Conner*, of Washington, D.C., for  
General Time Corp., *amicus curiae*.

## OPINION OF THE COMMISSION

By ANDERSON, *Commissioner*:

The respondents in this proceeding are a New York corporation, the address of which is Milford, Connecticut, and two individuals who formulate and direct its policies and serve as its officers. In the initial decision filed by him, the hearing examiner held that the charges of misrepresentation as to the origin of respondents' watch cases were sustained by the evidence and that others were not so supported. The respondents and counsel supporting the complaint have filed cross-appeals from the rulings adverse to their contentions at the hearings.

The name of the corporate respondent, Swiss Watch Case Corp., is stamped into the metal on the inside of the backs of the watch cases sold by the respondents. The complaint charges that the words "Swiss Watch," as thus inscribed, engender erroneous beliefs that such cases are made in Switzerland. The hearing examiner in ruling this charge sustained held that the corporate name inscription had the capacity and tendency to mislead prospective purchasers into beliefs that the watches so encased or the cases were imported from Switzerland.

The respondents do not sell their watch cases direct to the general public, but market them to watch assemblers who, after placing watch movements in them, sell the completed watches to retailers for distribution to the public. The components of respondents' watch cases include the back, the front or bezel containing the crystal, and a crown. Many of the respondents' cases contain backs and bezels imported from Hong Kong, China, in finished form. On the inside of the backs of many of them, the name Hong Kong is stamped underneath the words "Swiss Watch Case Corp." On others, the stamping Hong Kong does not appear, but the parts are shipped by respondents to the assemblers wrapped in paper imprinted with the words "Made in Hong Kong." Still other cases distributed by respondents are made from backs and bezels imported from Hong Kong in unfinished form for plating and further processing in this country. Many of such semi-finished parts are stamped

in red ink as originating in Hong Kong, which inscription frequently is obliterated during subsequent processing. These backs similarly are stamped on the inside by the respondents with the corporate name, and the Hong Kong inscription appears on some, but not others.

Determinations as to the likelihood of purchaser deception resulting from the word "Swiss" in the name inscription must be made with due regard to record matters bearing on the inscription's manner of use. Inasmuch as such inscription appears on the inside of the backs of the watch cases, it is open to the view by prospective watch purchasers only in the event of the back being removed. Being of the so-called waterproof type of construction, the cases contemplate a tighter bond between back and bezel than other types of cases and they apparently receive special machining for that purpose. A special tool is required for opening or closing a properly cased watch of this type.

The inscriptions on the cases received as exhibits appear in very small print and in stamping relatively dim and indistinct. In this connection, the hearing examiner observed at one point in the proceedings that he had been unable to read the words "Swiss Watch" on exhibits theretofore examined by him; and it was doubtless in recognition of discernment difficulties that counsel furnished a jeweler's loupe to assist our inspection of the exhibits during oral argument before the Commission. Furthermore, no testimony was introduced in support of the complaint's companion charge that a preference exists among a segment of the purchasing public for watches manufactured in their entirety in Switzerland or in the United States, together with a corollary prejudice against articles manufactured in Hong Kong. Nor was any evidence received suggestive of an awareness by retailers of the name inscription or indicating that watches for which respondents' cases are used are ever disassembled by retailers for purchasers' inspection. The present posture of the record therefore is such as to preclude informed determinations of whether the word "Swiss" in the concealed inscription has been used as a deceptive instrumentality as charged in the complaint.

The hearing examiner further held that irrespective of any public preferences or prejudices which may exist as between domestic and imported merchandise, the public is entitled, as a matter of law, to be informed by sellers' appropriate markings as to the foreign origin of an article being offered for sale. He accordingly ruled that respondents' failure to so mark their cases was unlawful; and the initial decision's order requires the respondents to cease and desist

from failing to reveal conspicuously and indelibly on the cases, or any part thereof, the country where such imported case or imported part was made.

In opposing respondents' appeal, counsel supporting the complaint argues that certain prior decisions<sup>1</sup> of the Commission afford sound legal basis for the above rulings and order. Such cited cases involved the distribution of sun glasses, imitation pearls and sewing machines composed in substantial part or wholly of components which were imported. However, those holdings in each instance were pursuant to specific allegations duly supported by probative evidence that members of the purchasing public assume that articles offered for sale produced in whole or in major part of imported materials are of domestic manufacture unless conspicuously labeled and marked to the contrary. No such allegation is included in the instant complaint nor was proof in that vein received here. In those matters also, the Commission, on the basis of record evidence, found that a preference existed among the consuming public for domestic over foreign articles in the categories of merchandise there involved. Proof in support of the instant complaint's allegation of consumer preference was not introduced here, however.

As also noted previously, in addition to those imported as finished cases, many of respondents' cases have contained imported parts further processed and finished in this country. The testimony relating to respondents' processing activities on the latter category of parts suggests this work constitutes 40% to 50% of the value of the completed case. Respondents' cases are sold in instances to watch assemblers for fifty cents per case or less. Whether their cases constitute substantial rather than relatively inconsequential components of the completed watches from a value standpoint is not disclosed by the record. In these circumstances, the contentions of counsel supporting the complaint that the Commission properly may take official notice of a long standing preference by the American public for domestic made and Swiss made watches over watches imported from other countries must be rejected as not controlling to decision; and his concept that failure to disclose foreign origin is unlawful in all merchandising situations similarly lacks sound legal basis. We accordingly deem the record insufficient for informed decision of the issues presented by respondents' appeal insofar as they relate to the initial decision's requirements for disclosure of foreign origin.

<sup>1</sup> *Lucian V. Segal, trading as Segal Optical Co.*, 34 F.T.C. 218 (decided November 26, 1941); *L. Heller & Son, Inc., et al.*, 47 F.T.C. 34 (decided August 25, 1950); *Standard Sewing Equipment Corp., et al.*, 51 F.T.C. 1012 (decided May 2, 1955).

The appeal of counsel supporting the complaint excepts to the hearing examiner's rulings dismissing certain charges for failure to establish a *prima facie* case. The backs of respondents' watch cases are composed of stainless steel and inscribed on the outside with the words "Stainless Steel Back." The cases, however, contain no markings expressly stating that the bezels are composed of base metal. Some of them are coated with chrome and others are flashed with a yellow color containing gold, which bezels allegedly simulate silver or gold in appearance. Considering that the backs are marked as stainless steel backs and not solely as stainless steel, we share in the hearing examiner's views that there has been no record showing of likelihood that purchasers buy watches encased in respondents' wares under mistaken beliefs that the bezel component likewise is stainless steel.

The finished case exhibit referred to in the appeal brief of counsel supporting the complaint as flashed with a thin coating of gold has various markings on the back, including "Base Metal," "20 Micron" and "Stainless Steel Back." Assuming, but not however deciding, that an issue in that regard is presented under the pleadings, the initial decision's conclusion of failure of proof concerning the bezels being passed off as gold bezels accordingly appears free from substantial error. Also rejected are counsel's exceptions to the like rulings concerning the failure to mark the chrome plated bezels.

The initial decision's dismissal of the charges relating to the inscription "Cased and Timed by Precision Watch Craftsmen" and of alleged misrepresentation concerning the capacity of the watch cases to resist moisture also was proper. The appeal of counsel supporting the complaint accordingly is being denied.

Our action in granting respondents' appeal is based in part on the fact that informed decision on the issue relating to deception through silence or failure to disclose the country of origin on watch cases and component parts is not possible on the present record. Doubts can be reasonably entertained if such issue or those relating to passing off of the bezels as gold or silver were adequately raised by the pleadings. We have power to amend complaints when warranted and to remand proceedings to hearing examiners for reception of such additional evidence as may be necessary to provide adequate bases for informed determinations of questions presented for review. This is a costly and time-consuming procedure, however. Moreover, there is no express showing here that the scope of respondents' commercial activities is such that continuation of these proceedings would serve the public interest. In the situation thus presented, the case is being dismissed without prejudice to the right

of the Commission to institute further proceedings or take such further action in the future as may be warranted by then existing circumstances.

Chairman Kintner and Commissioner Kern did not participate in the decision of this matter.

## FINAL ORDER

Counsel supporting the complaint and counsel for the respondents having filed their cross-appeals from the hearing examiner's initial decision in this proceeding and this matter having come on to be heard upon the record, including the brief filed by General Time Corporation as *amicus curiae*, and the oral arguments of counsel; and

The Commission, for reasons stated in the accompanying opinion, having granted the respondents' appeal and denied the appeal of counsel supporting the complaint:

*It is ordered*, That the complaint herein be, and it hereby is, dismissed without prejudice to the right of the Commission to institute further proceedings or take such further action in the future as may be warranted by then existing circumstances.

Chairman Kintner and Commissioner Kern not participating.

## IN THE MATTER OF

## HARRY GRAFF &amp; SON, INC., ET AL.

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

*Docket 7188. Complaint, July 17, 1958—Decision, July 31, 1959*

Order requiring a furrier in New York City to cease violating the Fur Products Labeling Act by failing to comply with labeling and invoicing requirements, by setting out fictitious prices on invoices, by failing to maintain adequate records as a basis for said pricing claims, and by furnishing a false guaranty that certain of their products were not misbranded, falsely invoiced, and falsely advertised.

*Mr. Charles W. O'Connell* for the Commission.

*Mr. Manfred H. Benedek*, of New York, N.Y., for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges that respondents have engaged in practices which are in violation of the Fur Products Labeling Act (hereinafter referred to as the Fur Act) and the Rules and Regulations

promulgated thereunder (hereinafter referred to as the Rules), which practices constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act. Respondents, by answer, deny that they have violated either Act. Hearings have been held, at which evidence was presented in support of and in opposition to the allegations of the complaint, and counsel have filed proposed findings of fact and proposed conclusions. Upon the basis of the entire record, the following findings of fact are made, conclusions drawn and order issued.

1. Respondent Harry Graff & Son, 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 place of business located at 251 West 30th Street, New York, New York. Respondents Harry Graff and Abraham Graff are president and secretary, respectively, of said corporation. They formulate, direct and control the acts, policies and practices of said corporate respondent, and their address is the same as that of the corporation.

2. Subsequent to the effective date of the Fur Products Labeling Act, August 9, 1952, respondents have been, and are now, engaged in the introduction into commerce and in the manufacture for introduction into commerce, and in the sale, advertising, and offering for sale in commerce, and in the transportation and distribution in commerce, of fur products; and have manufactured for sale, sold, advertised, offered for sale, transported and distributed fur products which have been made in whole or in part of fur which had been shipped and received in commerce, as "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act.

*Misbranding:*

3. The complaint charges that certain fur products were misbranded by respondents in violation of section 4(2) of the Fur Act and of Rule 29(a). In support of this charge, copies of two labels were introduced into evidence.

(a) The record discloses that by using the word "Beautified" instead of "dyed" on a label attached to a fur garment respondents had failed to make an adequate disclosure that such garment contained dyed fur. It appears, however, that this practice was voluntarily corrected prior to the issuance of the complaint herein. Evidence introduced for the purpose of showing that respondents had failed to set forth their name or identification number on a label does not support a finding that the label was deficient in this respect.

(b) The word "Ranch" appeared on both of the aforementioned labels with the information required by Section 4(2) of the Fur Act

and the Rules and Regulations promulgated under the Act. The fur products to which these labels were attached were therefore misbranded in violation of Rule 29(a) of the Rules and Regulations promulgated under the Fur Act.

*False Invoicing Through Fictitious Pricing:*

4. Respondents are charged with falsely and deceptively invoicing certain fur products by the use of fictitious prices in violation of §5(b)(2) of the Fur Act. The Act defines "invoice" as follows:

SEC. 2. As used in this Act—

(f) The term "invoice" means a written account, memorandum, list, or catalog, which is issued in connection with any commercial dealing in fur products or furs, and describes the particulars of any fur products or furs, transported or delivered to a purchaser, consignee, factor, bailee, correspondent, or agent, or any other person who is engaged in dealing commercially in fur products or furs.

On consignment bills to Arnold Constable, respondents showed two sets of prices for each garment. In one instance (consignment bill, dated 4/12/56) one set of prices was in a column headed "Regular"; the other column of prices was headed "Present." In another instance (consignment bill dated 2/11/57) similar sets of prices were headed "Original" and "Present." In each instance the "Regular" and "Original" prices were substantially higher than the "Present" prices—for example, some "Regular" prices were \$475, \$3,750 and \$875 for garments, the "Present" prices of which were \$295, \$2,795 and \$640; other "Original" prices were \$2,450, \$2,250 and \$2,400 for garments, the "Present" prices of which \$1,975, \$1,695 and \$1,900. The "Present" prices were those at which the garments were offered for sale to Constable. The "Regular" or "Original" prices were those which, the respondents stated, the garments were made to sell for.

5. Respondents maintained no records relative to prices of specific fur garments, except as shown on invoices, including consignment memorandums. As to many of the garments which carried the dual prices, there was no evidence of previous offering or actual selling prices. As to other garments, the record shows the following facts:

A mink coat consigned to Constable February 11, 1957, at an "original" price of \$2,450, "present" price \$1,975, had been consigned to Tauber & Sons on January 20, 1956, at \$2,350; to Ben Denker on January 27, 1956, at \$2,350; and to Mandel Bros. on February 21, 1956, at \$2,200.

Another mink coat consigned February 11, 1957, to Constable at "original" \$2,400, "present" \$1,900, had been consigned February 3, 1956, to Fred Goldstein at \$2,700.

Of those consigned to Constable April 12, 1956, one, a mink stole, priced "Regular" \$175, "Present" \$295, had been consigned to M. J. Goldstone January 23, 1956 at \$350; another, a silver blue mink stole similarly priced to Constable had been consigned February 4, 1956 to Segal & Tucker at \$550; still another similarly-priced garment had been consigned to Mandel February 21, 1956, at \$365.

6. Respondents used the dual pricing system so far as the record shows only on consignments to Arnold Constable and Bon Marche, and it was done at the consignees' request. Respondents keep no records of "original," "regular" or "present" prices—in fact, have no records as to prices except as shown on copies of invoices or consignment bills. The pattern of pricing shows that respondents had no regular or usual price on their fur garments. The prices listed under the heading "Original" or "Regular" do not, so far as the record shows, indicate an established former asking price. They are not based on any records which respondents kept as to cost of materials and manufacturing, nor are there any other records of respondents pertaining to price which show at what price any garment was originally offered or what or when changes in such price were subsequently made. The conclusion is that such prices were fictitious, and that the respondents have violated the Fur Act by setting out fictitious prices on their invoices, as charged in the complaint.

*False Advertising:*

7. The third charge is that respondents have falsely and deceptively advertised certain fur products by setting out on invoices prices which were in fact fictitious, in violation of Section 5(a)(5) of the Fur Act, and reliance to establish this charge is upon the facts hereinabove set forth and discussed. That respondents used fictitious prices on their consignment memorandums issued in connection with their fur-products transactions with Arnold Constable is clearly established. The fictitious prices set forth in these documents were in excess of the offering prices of the fur products to which they related and constituted false representations that such products were being offered for sale at a reduction from such fictitious prices. The documents themselves were used by respondents to aid and assist in the sale or offering for sale of the fur products listed therein, and the false representations made therein with respect to the prices of such products were necessarily intended for the same purpose. The fur products so described in the aforementioned consignment memorandums were falsely advertised within the meaning of Section 5(a)(5) of the Fur Act.

*Inadequate Records:*

8. The fourth charge is that respondents have violated Rule 44(e) by not maintaining full and adequate records disclosing the facts upon which their pricing and savings claims and representations are based. As hereinabove found, respondents have falsely advertised certain fur products by representing that the prices thereof were reduced from what were, in fact, fictitious prices. Respondents have failed to maintain records disclosing the facts upon which such representations were based as required by subsection (e) of Rule 44 and, consequently, have violated that subsection.

*False Guaranty:*

9. The last charge is that respondents have furnished a false guaranty that certain of their furs or fur products were not misbranded, falsely invoiced and falsely advertised, when the respondents, in furnishing such guaranty, had reason to believe the furs or fur products so falsely guaranteed might be introduced, sold, transported or distributed in commerce, in violation of §10(b) of the Fur Products Labeling Act.

10. It has hereinabove been found that respondents have misbranded and have falsely invoiced and falsely advertised certain of their fur products which were consigned to a retailer who respondents had reason to believe would sell, introduce, transport or distribute them in commerce. It follows that the continuing guaranty filed by respondents with the Federal Trade Commission, a copy of which is in the record, was false in that it guaranteed that respondents' fur products would not be misbranded and that no fur or fur product would be falsely or deceptively invoiced or advertised within the meaning of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder.

## CONCLUSIONS

1. Respondents are engaged in commerce and engaged in the above-found acts and practices in the course and conduct of their business in commerce, as "commerce" is defined in the Fur Products Labeling Act.

2. The Acts and practices of respondents hereinabove found are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, and constitute unfair and deceptive acts and practices in commerce under the Federal Trade Commission Act.

3. This proceeding is in the public interest, and an order to cease and desist the above-found acts and practices should issue against respondents.

4. The charge of alleged violation of Section 4(2) of the Fur Act is not sustained on the record, and provision for its dismissal accordingly is included in the order appearing hereafter.

Upon the basis of the foregoing findings and conclusions, and all the facts of record,

*It is ordered*, That respondents, Harry Graff & Son, Inc., a corporation, and Harry Graff and Abraham Graff, 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 the manufacture for introduction into commerce, or the sale, advertising, or offering for sale, 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 products" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by setting forth on labels attached thereto required information under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations thereunder, mingled with non-required information.

B. Falsely or deceptively invoicing fur products by representing, directly or by implication, on invoices that the former, regular or usual price of any fur product is any amount which is in excess of the price at which respondents have formerly, usually or customarily sold such product in the recent regular course of their business.

C. 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 represents, directly or by implication, that the former, regular or usual price of any fur product is any amount which is in excess of the price at which respondents have formerly, usually or customarily sold such product in the recent regular course of their business.

D. Making pricing claims or representations of the type referred to in Paragraph C above, unless there are maintained by respondents full and adequate records disclosing the facts upon which such claims and representations are based.

E. Furnishing a false guaranty that any fur or fur product is not misbranded, falsely invoiced, or falsely advertised, when the respondents have reason to believe that such fur or fur product may be introduced, sold, transported or distributed in commerce.

*It is further ordered,* That the charge of the complaint relating to alleged violations of Section 4(2) of the Fur Products Labeling Act be, and the same hereby is, dismissed.

## OPINION OF THE COMMISSION

By SECRET, *Commissioner*:

The initial decision filed by the hearing examiner ruled that respondents had falsely invoiced certain fur products and had furnished a false guaranty in violation of the Fur Products Labeling Act. It dismissed the complaint as to charges that respondents had misbranded and falsely advertised fur products and that they had failed to keep records required by Rule 44(e) of the Rules and Regulations promulgated under the Act. Counsel supporting the complaint has appealed from this decision.

The issues raised by the charges relating to false advertising and the failure to maintain records were before us in the matter of *Leviant Brothers, Inc., et al.*, Docket No. 7194, and were decided in that case. Since we find no significant difference between the facts of the two cases insofar as these issues are concerned, our opinion in *Leviant* on these issues is equally applicable here. For the reasons stated in that opinion, we agree with counsel supporting the complaint that the hearing examiner erred in dismissing these two charges.

Counsel supporting the complaint also excepts to the hearing examiner's rulings dismissing the charges that respondents had misbranded certain fur products in violation of Section 4(2) of the Act and Rule 29(a) of the Rules and Regulations promulgated under the Act. With respect to the alleged violation of Section 4(2), counsel in support of the complaint contends, first of all, that one of respondents' labels was deficient in that it did not set forth the manufacturer's name or identification number. This label had been attached to a fur garment sold or consigned by respondents to a retailer and had been observed and copied by the investigator while the fur garment was in the retailer's possession. It appears, however, that a tab at the bottom of the label whereon the respondents' identification number would ordinarily have been placed had been removed before the label was copied by the investigator. There is no evidence that the tab had been removed when the label was issued by respondents. In view of this fact and in view of respondents' testimony that they never issue a label without the identification number, we are of the opinion that the record is insuffi-

cient to support a finding that the label when issued by respondents did not set forth their identification number.

Counsel in support of the complaint also contends that respondents violated Section 4(2) by failing to disclose on a label that the fur garment to which such label was attached contained dyed fur. The label in question contained the word "Beautified" but it did not otherwise indicate that the fur in the garment was dyed. The record discloses, however, that this label had been attached to the fur garment by respondents approximately two years prior to the issuance of the complaint. Respondents have also testified that they had voluntarily discontinued the use of the term "Beautified" when they discovered that it was not a proper word to show that a fur product contained fur that had been dyed. There is no other evidence in the record to indicate that respondents have failed to disclose information required by Section 4(2). Since the term "Beautified" is known in the industry to mean a process of dyeing, we have no reason to doubt that respondents' use of this term was a good faith attempt to comply with the requirement of subsection (c) of Section 4(2). This consideration together with respondents' statement that they had corrected their labels and the fact that the investigation failed to uncover any other instances of misbranding in violation of the aforementioned section lead us to believe that respondents had been in compliance with Section 4(2) for some time prior to the issuance of the complaint. We are in agreement with the hearing examiner, therefore, that an order requiring compliance with this section is not warranted under the circumstances.

We are of the opinion, however, that the hearing examiner erred in dismissing the charge that respondents had violated Rule 29(a) of the Rules and Regulations promulgated under the Act. The record clearly establishes that the word "Ranch" appeared with required information on labels affixed to fur garments by respondents. The use of this non-required information on the side of a label containing required information constitutes a violation of Rule 29(a). The hearing examiner's application of the *de minimis* doctrine to these instances of misbranding is unwarranted, and his ruling on this point is, therefore, reversed.

To the extent indicated herein, the appeal of counsel supporting the complaint is granted and our order providing for appropriate modification of the initial decision is issuing herewith.

FINAL ORDER

Counsel supporting the complaint having filed an appeal from the initial decision of the hearing examiner and the matter having been

heard on briefs, no oral argument having been requested; and the Commission having rendered its decision granting in part and denying in part the aforementioned appeal and directing modification of the initial decision:

*It is ordered*, That paragraph 3 of the initial decision be modified to read as follows:

3. The complaint charges that certain fur products were misbranded by respondents in violation of Section 4(2) of the Fur Act and of Rule 29(a). In support of this charge, copies of two labels were introduced into evidence.

(a) The record discloses that by using the word "Beautified" instead of "dyed" on a label attached to a fur garment respondents had failed to make an adequate disclosure that such garment contained dyed fur. It appears, however, that this practice was voluntarily corrected prior to the issuance of the complaint herein. Evidence introduced for the purpose of showing that respondents had failed to set forth their name or identification number on a label does not support a finding that the label was deficient in this respect.

(b) The word "Ranch" appeared on both of the aforementioned labels with the information required by Section 4(2) of the Fur Act and the Rules and Regulations promulgated under the Act. The fur products to which these labels were attached were therefore misbranded in violation of Rule 29(a) of the Rules and Regulations promulgated under the Fur Act.

*It is further ordered*, That paragraph 7 of the initial decision be modified to read as follows:

7. The third charge is that respondents have falsely and deceptively advertised certain fur products by setting out on invoices prices which were in fact fictitious, in violation of Section 5(a)(5) of the Fur Act, and reliance to establish this charge is upon the facts hereinabove set forth and discussed. That respondents used fictitious prices on their consignment memorandums issued in connection with their fur-products transactions with Arnold Constable is clearly established. The fictitious prices set forth in these documents were in excess of the offering prices of the fur products to which they related and constituted false representations that such products were being offered for sale at a reduction from such fictitious prices. The documents themselves were used by respondents to aid and assist in the sale or offering for sale of the fur products listed therein, and the false representations made therein with respect to the prices of such products were necessarily intended for the same purpose. The fur products so described in the aforemen-

tioned consignment memorandums were falsely advertised within the meaning of Section 5(a)(5) of the Fur Act.

*It is further ordered,* That paragraph 8 of the initial decision be modified to read as follows:

8. The fourth charge is that respondents have violated Rule 44(e) by not maintaining full and adequate records disclosing the facts upon which their pricing and savings claims and representations are based. As hereinabove found, respondents have falsely advertised certain fur products by representing that the prices thereof were reduced from what were, in fact, fictitious prices. Respondents have failed to maintain records disclosing the facts upon which such representations were based as required by subsection (e) of Rule 44 and, consequently, have violated that subsection.

*It is further ordered,* That paragraph 10 of the initial decision be modified to read as follows:

10. It has hereinabove been found that respondents have misbranded and have falsely invoiced and falsely advertised certain of their fur products which were consigned to a retailer who respondents had reason to believe would sell, introduce, transport or distribute them in commerce. It follows that the continuing guaranty filed by respondents with the Federal Trade Commission, a copy of which is in the record, was false in that it guaranteed that respondents' fur products would not be misbranded and that no fur or fur product would be falsely or deceptively invoiced or advertised within the meaning of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder.

*It is further ordered,* That the conclusions of law contained in the initial decision be modified to read as follows:

1. Respondents are engaged in commerce and engaged in the above-found acts and practices in the course and conduct of their business in commerce, as "commerce" is defined in the Fur Products Labeling Act.

2. The acts and practices of respondents hereinabove found are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, and constitute unfair and deceptive acts and practices in commerce under the Federal Trade Commission Act.

3. This proceeding is in the public interest, and an order to cease and desist the above-found acts and practices should issue against respondents.

4. The charge of alleged violation of Section 4(2) of the Fur Act is not sustained on the record, and provision for its dismissal accordingly is included in the order appearing hereafter.

*It is further ordered,* That the following order be, and it hereby is, substituted for the order contained in the initial decision:

*It is ordered,* That respondents, Harry Graff & Son, Inc., a corporation, and Harry Graff and Abraham Graff, 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 the manufacture for introduction into commerce, or the sale, advertising, or offering for sale, 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 products" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by setting forth on labels attached thereto required information under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations thereunder, mingled with non-required information.

B. Falsely or deceptively invoicing fur products by representing, directly or by implication, on invoices that the former, regular or usual price of any fur product is any amount which is in excess of the price at which respondents have formerly, usually or customarily sold such product in the recent regular course of their business.

C. 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 represents, directly or by implication, that the former, regular or usual price of any fur product is any amount which is in excess of the price at which respondents have formerly, usually or customarily sold such product in the recent regular course of their business.

D. Making pricing claims or representations of the type referred to in Paragraph C above, unless there are maintained by respondents full and adequate records disclosing the facts upon which such claims and representations are based.

E. Furnishing a false guaranty that any fur or fur product is not misbranded, falsely invoiced, or falsely advertised, when the respondents have reason to believe that such fur or fur product may be introduced, sold, transported or distributed in commerce.

*It is further ordered,* That the charge of the complaint relating to alleged violations of Section 4(2) of the Fur Products Labeling Act be, and the same hereby is, dismissed.

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

*It is further ordered*, That respondents, Harry Graff & Son, Inc., Harry Graff and Abraham Graff, shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist contained herein.

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IN THE MATTER OF  
IRVING C. KATZ CO., INC., ET AL.

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

*Docket 7190. Complaint, July 17, 1958—Decision, July 31, 1959*

Order requiring a furrier in New York City to cease violating the Fur Products Labeling Act by failing to comply with invoicing requirements, by setting out on invoices fictitious prices, by failing to maintain adequate records as a basis for such pricing claims, and by furnishing a false guaranty that their fur products were not misbranded, falsely invoiced, and falsely advertised.

*Mr. Charles W. O'Connell* for the Commission.

*Mr. Manfred H. Benedek*, of New York, N.Y., for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges that respondents have engaged in practices which are in violation of the Fur Products Labeling Act (hereinafter referred to as the Fur Act) and the Rules and Regulations promulgated thereunder (hereinafter referred to as the Rules), which practices constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act. Respondents, by answer, deny that they have violated either Act. Hearings have been held, at which evidence was presented in support of and in opposition to the allegations of the complaint, and counsel have filed proposed findings of fact and proposed conclusions. Upon the basis of the entire record, the following findings of fact are made, conclusions drawn and order issued.

1. Respondent Irving C. Katz Co., Inc. is a corporation organized, existing and doing business under and by virtue of the laws of