It is evident that as a result of respondent's policy competitors were foreclosed from selling to over 7,500 established dealers in the replacement market.

As previously found, there are several reasons why dealers prefer to handle several lines or brands of tapered roller bearings. Because of respondent's policy, its dealers are not permitted to exercise any discretion as to the brands they will carry and sell. As a result, respondent's dealers are injured by not being able to take advantage of higher discounts offered by some competitors and lose substantial sales because they are unable to carry competitive bearings. This is illustrated by the statement of one of respondent's salesmen who, in reporting a conversation with an authorized jobber, stated:

> He further stated that he made a survey of some of these dealers (car and truck dealers) on the acceptance of Bower Bearings and he found out that they would accept Bower Bearings. He added that for that class of trade, he buys Bower but for his fleet trade and garage type of trade, he will buy Timken. He further added that he knows that we would not countenance that sort of dual buying * * *. (Commission Exhibit 29 A and B)

Under the foregoing circumstances, the appeal of counsel supporting the complaint is granted. The initial decision is set aside, and we are entering our own findings as to the facts, conclusion and order to cease and desist in conformity with this opinion.

Commissioner Mills did not participate in the decision of this matter for the reason he did not hear oral argument.

In The Matter Of

NICHOLS & COMPANY, INC., ET AL.*

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

Docket 7659. Complaint, Nov. 17, 1959—Decision, Jan. 24, 1961

Order requiring an individual engaged in garnetting wool stocks on commission for other firms, to cease violating the Wool Products Labeling Act by labeling as "80% Camel Hair, 20% Wool", wool stocks which contained in part reprocessed woolen fibers, and by failing in other respects to comply with labeling requirements.

*Settled as to all other respondents by consent order dated Mar. 25, 1960 (56 F.T.C. 1122).

681-237—63——9

Mr. Garland S. Ferguson for the Commission.
Mr. Harry Carr for himself.

INITIAL DECISION BY HARRY R. HINKES, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939 and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, on November 17, 1959, issued and subsequently served its complaint in this proceeding upon the respondents, charging them with violation of the provisions of said Acts and the Rules and Regulations promulgated under the Wool Products Labeling Act. Thereafter, on February 1, 1960, all of the respondents with the exception of Harry Carr agreed with counsel supporting the complaint to a consent order to cease and desist, and on March 25, 1960 the initial decision of the hearing examiner accepting the consent agreement was adopted as the Decision of the Commission, disposing of this matter as to all of the respondents with the exception of Harry Carr.

Pursuant to notice, a hearing was held as to respondent Harry Carr on March 11, 1960, at which witnesses called by the Commission counsel were heard and a number of Commission exhibits received in evidence. Mr. Carr was afforded an opportunity to cross-examine the witnesses, to testify on his own behalf and to submit evidence. Proposed findings, conclusions and order were submitted by Commission counsel, and an opportunity was afforded respondent to do same. Several informal communications were received from the respondent which have been considered in the determination of this case as well as the formal record on file. Oral arguments on the proposed findings were held on June 13, 1960 as of which date the proceedings were closed.

Upon the whole record herein, including all exhibits received in evidence and the testimony of the witnesses as well as Mr. Carr, whose conduct and demeanor were under observation during the hearing, the examiner makes the following:

FINDINGS OF FACTS

1. Respondent Harry Carr is an individual trading and doing business as Harry Carr and as West First Processing Inc., erroneously named in the complaint as West First Processing Company. Respondent's office and principal place of business is located at 319 West First Street, South Boston 27, Massachusetts.

2. Respondent Harry Carr is engaged in the commission garnetting business, processing material belonging to others into cotton-batting-like material for further processing into cloth. In this

process, respondent's customers ship their material to him and provide labels which he affixes to the product after his processing operations are concluded. Thereafter, pursuant to the instructions of his customers, respondent ships the processed material to such mills as his customers designate.

3. Respondent is paid a stipulated price for his services. He does not purchase the stock which he processes nor does he sell same.

4. Respondent is engaged in the manufacture of wool products within the meaning of the Wool Products Labeling Act of 1939. Subsequent to the effective date of that Act and more particularly since January 11, 1958, respondent has manufactured for introduction into commerce and has transported, distributed, delivered for shipment and shipped in commerce, as "commerce" is defined in that Act, such wool product.

5. The wool products concerning which evidence was adduced at the hearing consists of two lots garnetted by the respondent upon the instructions of his customer, Nichols & Company, Inc. These lots were prepared for shipment and shipped by the respondent from his place of business in Boston, Massachusetts, to Lebanon Mills in Lebanon, New Hampshire.

6. The respondent, in the course and conduct of his business, was and is in competition in commerce with other individuals, firms and corporations likewise engaged in the manufacture of wool products.

7. Certain of said wool products garnetted and introduced into commerce by the respondent were misbranded by respondent within the intent and meaning of Section 4(a)(1) of the Wool Products Labeling Act in that they were falsely and deceptively labeled or tagged with respect to the character and amount of the constituent fibers contained therein.

Labels or tags attached by respondent to the lots of wool products, concerning which evidence was adduced in this proceeding, showed the fiber content to be "80% Camel Hair, 20% Wool." Tests of these lots made both by a Commission expert and another showed the camel hair content by weight to be between 19 and 24 percent and the wool content to be between 75 and 80 percent. Said products contained, in part, reprocessed wool as defined in the Wool Products Labeling Act.

8. Certain of said wool products manufactured and shipped by respondent were misbranded in that they did not have affixed to them a stamp, tag, label or other means of identification showing each fiber other than wool contained in said wool stock in quantities of 5 percent or more by weight as required under the provisions of Section 4(a)(2) of the Wool Products Labeling Act. All thirteen

samples of one of the lots used by respondent in manufacturing the wool product which he shipped in commerce were tested by a Commission expert and found to contain more than 5 percent of non-wool fibers.

A — 84%	Wool,	16%	non-wool fibers
B — 75%	" ,	25%	" "
C — 86%	" ,	14%	Mohair
D — 52%	" ,	48%	non-wool fibers
E — 74%	" ,	26%	Mohair
F — 80%	" ,	20%	"
G — 91%	" ,	9%	"
H — 53%	" ,	47%	Camel hair
I — 93%	" ,	7%	non-wool fibers
J — 2%	" ,	98%	Camel hair
K — 2%	" ,	98%	" "
L — 42%	" ,	58%	" "
M — 85%	" ,	15%	non-wool fibers

OPINION

Harry Carr, the respondent in this proceeding, is a processor of wool stocks title to which remains in the name of his customer. The end result of his operations is not a finished product but a semi-finished product which he sends to a wool mill designated by his customer for further finishing into cloth. There is no denial, however, that the respondent performs some work upon the material and that it leaves his hands in a different state or condition from that in which it arrived. The Wool Products Labeling Act of 1939 makes unlawful and an unfair method of competition as well as an unfair or deceptive act or practice the "introduction, or manufacture for introduction, or manufacture for introduction, into commerce, or the sale, transportation, or distribution, in commerce, of any wool product which is misbranded . . ." It should be noted that the various acts are stated in the disjunctive. Coverage does not depend upon a sale but may be found merely upon transportation in commerce of the misbranded product. Respondent's delivery of the product to a trucker for interstate delivery is sufficient to constitute "introduction" into commerce. In fact, the Act, in apparent recognition of that comprehensive coverage, specifically exempts common carriers or contract carriers. The Act, however, contains no exception or exemption for the type of work respondent engages in other than the guaranty provisions of Section 9. There is nothing in the record, however, indicating any receipt by respondent of a Section 9 guaranty from his supplier.

Even without such introduction into commerce, Mr. Carr's activities would be covered under the Act as a manufacturer. See *United Felt Co., et al.*, FTC D. 7132, October 21, 1959, where the Commission stated:

Respondent United Felt Co. is engaged in the manufacture of wool batting by garnetting it from raw material supplied from sources in Illinois . . . respondents have manufactured from introduction into commerce . . . .

To the same effect see also *Bolger Brothers*, FTC D. 5378 August 26, 1946.

Since the respondent has admitted that he placed the labels upon the product shipped out of the state, the only issue to be decided is whether the product was misbranded within the meaning of the Act or the Rules and Regulations thereunder. In this respect, the evidence is quite clear and, for all practical purposes, undisputed. The label specified the fiber content to be 80 percent camel hair and 20 percent wool and made no mention of the presence of reprocessed wool. Tests made upon a number of samples taken from the wool stock in question before processing showed the presence of woven material. Under the Wool Products Labeling Act the term "reprocessed Wool" means the resulting fiber when wool has been woven or felted into a wool product which, without having been ever utilized in any way by the ultimate consumer, consequently has been made into a fibrous state. By definition, therefore, it would appear that the lots in question were made, at least in part, from reprocessed wool. The same is true of the camel hair clips found in the raw material of the lots in question. Failure to indicate the reprocessed wool origin of the lots in question, therefore, constitutes a misbranding.

In addition, tests made upon the lots after shipment from respondent's plant indicate that they did not contain anything near 80 percent camel hair as specified on the labels.

Finally, the labels made no mention of the presence of non-wool fibers. Tests made on a number of samples of one of the lots used by respondent in manufacturing the wool product which he shipped in commerce, showed the presence of substantial amounts of non-wool fibers ranging from 7 to 98 percent.

None of these expert findings were disputed by the respondent who asserted simply that he knew nothing about the fiber content. Respondent's defense that he merely labeled as instructed by his customers has already been considered by the Commission and deemed without merit. See *Modern Rug Company, Inc.*, FTC D. 7373, November 11, 1959.

Accordingly, upon due consideration of the foregoing, I make the following

CONCLUSIONS

1. Respondent has misbranded wool products within the intent of meaning of Section 4(a)(1) and 4(a)(2) of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder.

2. The acts and practices of the respondent, all to the prejudice and injury of the public and of respondent's competition, constitutes unfair and deceptive acts and practices and unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

3. The Federal Trade Commission has jurisdiction of all of the respondent's acts and practices which have been hereinabove found to be violative of the Wool Products Labeling Act of 1939 and the Federal Trade Commission Act.

ORDER

It is ordered, That respondent Harry Carr, trading and doing business as Harry Carr and as West First Processing Inc., erroneously named in the complaint as West First Processing Company, 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 offering for sale, sale, transportation, or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, of woolen stocks or other "wool products" as such products are defined in and subject to said Wool Products Labeling Act, do forthwith cease and desist from misbranding such products by:

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

2. Failing to affix labels to such products showing each element of information required to be disclosed by Section 4(a)(2) of the Wool Products Labeling Act of 1939.

OPINION OF THE COMMISSION

By ANDERSON, *Commissioner:*

The complaint in this matter charges respondents, Nichols & Company, Inc., a corporation, Arthur O. Wellman, Arthur O. Wellman, Jr., and John H. Nichols, Jr. (erroneously named in the complaint

as John N. Nichols, Jr.), individually and as officers of said corporation, Sumner E. Burdette, an employee of said corporate respondent, and Harry Carr, an individual trading and doing business as Harry Carr and as West First Processing, Inc. (erroneously named in the complaint as West First Processing Company), with misbranding wool products in violation of the Wool Products Labeling Act and the Rules and Regulations promulgated thereunder. The complaint also charges respondents, except Harry Carr, with falsely invoicing woolen stocks in violation of the Federal Trade Commission Act.

The corporate respondent, Nichols & Company, Inc., its officers and employee, named above, acting under §3.25 of the Commission's Rules of Practice, executed an agreement containing a consent order to cease and desist, and an initial decision as to these respondents was filed by the hearing examiner on February 5, 1960, and became the decision of the Commission on March 25, 1960. Respondent Harry Carr, hereinafter referred to as respondent, contested the charges against him, and the hearing examiner, in a separate initial decision, held that the allegations of the complaint with respect to this respondent were sustained by the evidence and included an order to cease and desist. The matter is now before the Commission on the appeal of respondent from this decision.

The record discloses that respondent is engaged in the commission garnetting business. Wool stocks owned by other firms are sent to respondent for garnetting, a process whereby the material is reduced into a fibrous state. After this operation has been performed, respondent labels the garnetted material with tags supplied by the owner and thereafter ships it pursuant to the owner's instructions. Certain wool stocks owned by Nichols & Company, Inc., were garnetted by respondent, labeled by him as "80% camel hair, 20% wool", and shipped by him from his place of business in Boston, Massachusetts, to a woolen mill in Lebanon, New Hampshire. The complaint alleges and the hearing examiner found that the garnetted material was misbranded in violation of Section 4(a)(1) of the Wool Products Labeling Act in that it was falsely and deceptively labeled with respect to the character and amount of the constituent fibers contained therein, and that it was further misbranded in that it was not stamped, tagged or labeled as required under the provisions of Section 4(a)(2) of the Act.

Tests of two lots of the garnetted material conducted independently by two experts disclosed the camel hair content to be between 19% and 24% and the other wool content to be between 75% and 80%. Although respondent concedes that the tags attached to the garnetted material misstated the percentage of camel hair, he contends that

the evidence does not support the hearing examiner's finding that this material contained reprocessed wool. "Reprocessed wool" is defined in the Act as "the resulting fiber when wool has been woven or felted into a wool product which, without ever having been utilized in any way by the ultimate consumer, subsequently has been made into a fibrous state." Respondent argues that the only evidence to support the finding that the material in question contained reprocessed wool are samples of woven cloth taken by the Commission's investigator from hoppers containing stock being processed by respondent. He attempts to explain the presence of these woven clips by stating that a clip sorter may have made a misthrow allowing a few pieces of woven material to get into the wool stock; that these pieces would have been thrown out by the shredder and, at the end of a lot, would have been recovered from the floor and placed into the hoppers so that all stock received from the customer could be returned. We do not believe that this is what occurred, however. The record shows that the investigator obtained the woven clips from containers that receive the wool stock from a picking machine and feed it into the garnetting machine. Moreover, according to the investigator's testimony, with which respondent agreed, the samples were obtained, not at the end of a lot, but while a lot was "going through the machinery." In view of this evidence, it appears that woven material was being processed by respondent.

We agree with respondent, however, that there is no record support for the finding in the initial decision that the material which he garnetted contained more than 5% of non-wool fibers. It appears that the test report relied upon by the hearing examiner in making this finding classifies mohair and camel hair as "non-wool fibers." Such classification is obviously incorrect since both of these fibers are "wool" as that word is defined in Section 2 of the Act. The initial decision will be modified to correct this finding.

The aforementioned finding was the sole basis for the conclusion in the initial decision that respondent had misbranded wool products within the meaning of Section 4(a) (2). Although this finding was in error, there is other evidence of record to support such a conclusion. As stated above, certain of the wool products manufactured by respondent contained reprocessed wool. The percentage by weight of this fiber was not disclosed on labels affixed to such products, nor did such labels show the true percentage by weight of the wool content, as distinguished from the reprocessed wool content, of such products. Consequently, products manufactured and shipped in commerce by respondent did not have affixed to them labels or other means of identification setting forth information required to be disclosed by Section 4(a) (2) of the Act.

It is also contended by respondent that the hearing examiner erred in concluding that he manufactures wool products. Respondent's argument seems to be that since the garnetted material is not a completely manufactured article such as a blanket, the operation which he performs is not a manufacturing process and the product resulting from this operation is not a wool product. This argument must be rejected. See *United Felt Company, et al.*, Docket No. 7132 (1959). The garnetting operation performed by respondent is a stage in the process of converting wool stocks into cloth. As pointed out by the Supreme Court in *Tide Water Oil Company* v. *United States*, 171 U.S. 210 (1898), "Raw materials may be and often are subjected to successive processes of manufacture, each one of which is complete in itself, but several of which may be required to make the final product." The Court further stated that "The material of which each manufacture is formed . . . is not necessarily the original raw material . . . but the product of a prior manufacture; the finished product of one manufacture thus becoming the material of the next in rank." The garnett in this case is the finished product of the manufacturing process performed by respondent and is in turn the raw material to be used by the woolen mill in making cloth. Since it contains wool and reprocessed wool, it is a "wool product" within the meaning of that term.

We must also reject respondent's argument that he was not required to affix labels to the garnetts which he processed. As found by the hearing examiner, respondent manufactured wool products for introduction into commerce and shipped such products in commerce. He is, therefore, subject to the requirements of the Act. In the Matter of *Bolger Brothers*, Docket No. 5378 (1946).

Respondent's final exception to the initial decision is that there is no public interest in a proceeding against a person who merely acts as a bailee of wool products owned by another. He argues in this connection that even though he is technically required to comply with the provisions of the Wool Products Labeling Act, the Act should be construed by the Commission so as to exempt him from this requirement. This argument, however, goes to the wisdom of the legislation and should be directed to Congress and not the Commission. We are charged with administering the Act as written and are without authority to create an exemption therefrom which Congress did not see fit to make.

To the extent indicated herein the appeal of respondent is granted; in all other respects it is denied. The initial decision, modified to conform with this opinion, will be adopted as the decision of the Commission.

FINAL ORDER

This matter having been heard by the Commission upon the appeal of respondent Harry Carr from the hearing examiner's initial decision, and upon briefs and oral argument in support thereof and in opposition thereto; 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 the initial decision be modified by substituting for Paragraph 8 the following:

8. Certain of said wool products manufactured and shipped by respondent contained quantities of reprocessed wool. Such products were misbranded in that they did not have affixed to them a stamp, tag, label or other means of identification showing the percentage of the total fiber weight of the wool product of wool and reprocessed wool as required under the provisions of Section 4(a)(2) of the Wool Products Labeling Act.

It is further ordered, That the initial decision be further modified by striking therefrom the paragraph on page 5 beginning with the words "Finally, the labels made no mention" and ending with the words "ranging from 7 to 98 percent."

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

It is further ordered, That respondent Harry Carr 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

ALBERT VITOFF AND JOSEPH DANZER TRADING AS VITOFF & DANZER

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

Docket 7984. Complaint, June 24, 1960—Decision, Jan. 24, 1961

Consent order requiring New York City furriers to cease violating the Fur Products Labeling Act by failing to set forth separately on labels information concerning different animal furs in a fur product; falsely invoicing fur products with respect to names of animals producing certain furs; failing to set forth properly on invoices the term "Dyed Mouton processed Lamb" where used; and failing in other respects to comply with labeling and invoicing requirements.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Albert Vitoff and Joseph Danzer, individually and as copartners trading at Vitoff & Danzer, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Joseph Danzer and Albert Vitoff are individuals and copartners trading as Vitoff & Danzer with their office and principal place of business located at 129 West 29th Street, New York, New York.

PAR. 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.

PAR. 3. Certain of said fur products were misbranded in that they were not labeled as required under the provisions of Section 4(2) of the Fur Products Labeling Act and in the manner and form prescribed by the Rules and Regulations promulgated thereunder.

PAR. 4. Certain of said fur products were misbranded in violation of the Fur Products Labeling Act in that they were not labeled in accordance with the Rules and Regulations promulgated thereunder in the following respects:

(a) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was set forth in handwriting on labels, in violation of Rule 29(b) of said Rules and Regulations.

(b) Required item numbers were not set forth on labels, in violation of Rule 40 of said Rules and Regulations.

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

was not set forth separately on labels with respect to each section of fur products composed of two or more sections containing different animal furs, in violation of Rule 36 of said Rules and Regulations.

PAR. 5. Certain of said fur products were falsely and deceptively invoiced by respondents in that they were not invoiced as required by Section 5(b)(1) of the Fur Products Labeling Act, and in the manner and form prescribed by the Rules and Regulations promulgated thereunder.

PAR. 6. Certain of said fur products were falsely and deceptively invoiced or otherwise falsely and deceptively identified with respect to the name or names of the animal or animals that produced the fur from which said fur products had been manufactured in violation of Section 5(b)(2) of the Fur Products Labeling Act.

PAR. 7. Certain of said fur products were falsely and deceptively invoiced in violation of the Fur Products Labeling Act in that they were not invoiced in accordance with the Rules and Regulations promulgated thereunder in the following respects:

(a) Information required under Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was set forth in abbreviated form, in violation of Rule 4 of said Rules and Regulations.

(b) The term "Dyed Mouton processed Lamb" was not set forth in the manner required where an election was made to use that term instead of Dyed Lamb in violation of Rule 9 of said Rules and Regulations.

(c) Required item numbers were not set forth on invoices in violation of Rule 40 of said Rules and Regulations.

PAR. 8. The aforesaid acts and practices of respondents, as herein alleged, 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.

DeWitt T. Puckett, Esq., supporting the complaint.

Charles Goldberg, Esq., of New York 1, N.Y., for respondents.

INITIAL DECISION BY LEON R. GROSS, HEARING EXAMINER

On June 24, 1960, the Federal Trade Commission issued a complaint against the above-named respondents, in which they were charged with violating the Federal Trade Commission Act, and the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder by, among other things, misbranding, putting

required information on labels in handwriting, omitting required item numbers from labels, omitting information from labels, falsely and deceptively invoicing, falsely and deceptively identifying, and failing to give information concerning respondents' fur products sold by said respondents in interstate commerce. A true and correct copy of the complaint was served upon the respondents and each and all of them, as required by law. Thereafter respondents appeared by counsel and agreed to dispose of this proceeding without a formal hearing pursuant to the terms of an agreement dated September 15, 1960, containing consent order to cease and desist. The agreement was submitted to the undersigned hearing examiner on September 28, 1960, in accordance with §3.25 of the Commission's Rules of Practice for Adjudicative Proceedings. The agreement purports to dispose of this proceeding as to the respondents and each and all of them and contains the form of a consent cease-and-desist order which the parties have represented is dispositive of the issues involved in this proceeding. The agreement has been signed by the respondents individually and as copartners trading as Vitoff & Danzer, by the attorney for the respondents, by counsel supporting the complaint, and has been approved by the Assistant Director, Associate Director and Acting Director of the Bureau of Litigation of the Federal Trade Commission. In said agreement of September 15, 1960, respondents admit all of the jurisdictional facts alleged in the complaint and agree that the record may be taken as if findings of jurisdictional facts had been made in accordance with such allegations. In the agreement the 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 rights respondents may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement.

The parties further agree, in said agreement, that the record on which the initial decision and the decisions of the Commission shall be based shall consist solely of the complaint and the 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 Federal Trade Commission; that the order to cease and desist entered in this proceeding by the Commission may be entered without further notice to the respondents, and when so entered such order will have the same force and effect as if entered after a full hearing. Said order 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.