lish that respondent has obtained, or attempted to obtain, a monopoly in any market.

The Commission has reviewed the evidence and considered the arguments of the parties and has concluded that the hearing examiner's findings and conclusions of fact are correct and that dismissal of the complaint is proper. The Commission, however, does not consider the initial decision appropriate in all respects to dispose of this matter and has determined that it should be modifed by striking therefrom certain conclusions of law.

It is ordered, That the appeal of counsel supporting the complaint be, and it hereby is, denied.

It is further ordered, That the initial decision be modified by striking therefrom conclusions of law beginning on page 594 with the words "The position taken by complaint counsel" and ending on page 600 with the words "section 5 of the Federal Trade Commission Act."

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

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

Commissioner MacIntyre not concurring.

IN THE MATTER OF

BROADWAY-HALE STORES, INC.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 7 OF THE CLAYTON ACT

Docket C-1057. Complaint, April 14, 1966—Decision, April 14, 1966

Consent order requiring a California chain department store, the 16th largest in the Nation, to cease and desist from acquiring without permission of the Federal Trade Commission any department or GMFA (General Merchandise, Apparel, Furniture) store for a period of 5 years, unless the Commission, through an industrywide proceeding, issues rules or guidelines covering such acquisitions.

COMPLAINT

The Federal Trade Commission, having reason to believe that the above-named respondent has violated the provisions of Sec-

tion 7 of the Clayton Act, 15 U.S.C. § 18, and that a proceeding in respect thereof would be to the interest of the public issues this complaint, stating its charges as follows:

I. DEFINITIONS

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

(a) "Apparel" includes all clothing and related articles and accessories for personal wear and adornment, exclusive of footwear, for men, women and children. This definition corresponds to Bureau of Census commodity classifications 140 and 160, combined, as used in the 1963 Census of Business.

(b) "Department stores" are retail stores normally employing 25 or more people and engaged in selling some items in each of the following lines of merchandise:

(i) Furniture, home furnishings, appliances, radio and TV sets;

(ii) A general line of apparel; and

(iii) Household linens and dry goods.

An establishment with annual total sales of less than $5 million is not classified as a "department store" if: (a) sales of any one of these groups is greater than 80 percent of total sales, or (b) sales of groups (ii) and (iii) combined represent less than 20 percent of total sales. An establishment with annual total sales of $5 million or more is classified as a "department store" even if sales of one of the groups described above is more than 80 percent of total sales, provided that the combined annual sales of the other two groups is $500,000 or more. This definition corresponds to Bureau of Census Industry Classification No. 531, as used in the 1963 Census of Business.

(c) "General Merchandise, Apparel, Furniture stores," hereinafter referred to as "GMAF stores," include retail establishments in the following categories:

(i) Department stores;

(ii) Other stores primarily engaged in the sale of apparel; Bureau of Census Major Industry Group No. 56;

(iii) Limited price variety stores—establishments primarily selling a variety of merchandise at low and popular price ranges, such as stationery, gift items, accessories, toilet articles, light hardware, toys, housewares, confectionery; these establishments frequently are known as "5 and 10¢ stores," although they usu-

ally sell merchandise outside these price ranges; these stores comprise Bureau of Census Industry Classification No. 533;

(iv) Miscellaneous general merchandise stores—retail stores primarily selling household linens and dry goods and/or a combination of apparel, hardware, homewares or home furnishings; stores which meet the criteria for department stores except as to number of employees are included here; these stores comprise Bureau of Census Industry Classification No. 539.

(v) Furniture, home furnishings, and equipment stores—retail stores primarily selling merchandise used in furnishing the home, such as furniture, floor coverings, draperies, glass and chinaware, domestic stoves, refrigerators, and other household electrical and gas appliances, including radio and TV sets; such stores comprise Bureau of Census Major Industry Group No. 57.

GMAF stores, as defined herein, correspond to all retail store groups under Bureau of Census Major Industry Groups No. 53, 56, and 57.

II. BROADWAY-HALE

2. Respondent, Broadway-Hale Stores, Inc., hereinafter referred to as "Broadway-Hale," is a corporation organized and existing under the laws of the State of Delaware, with its principal office and principal place of business located at 600 South Spring Street, Los Angeles, California, 90014.

3. Broadway-Hale is the sixteenth largest department store company in the United States, and the largest department store company based in the Western United States. Its 27 department stores are among the leading mercantile establishments in the areas where they are located. Broadway-Hale's annual sales are approximately $220 million; its total assets are approximately $150 million; and its accumulated earnings exceed $32 million.

4. Since the middle 1950's, Broadway-Hale has engaged in a program of acquiring existing department stores: In 1956, Broadway-Hale purchased a store in the Los Altos Shopping Center near Long Beach, California; this store is now operated as the "Broadway-Long Beach." In March 1960, the company acquired Coulter's, a Los Angeles area department store; the principal Coulter's property is now operated as the "Broadway-Wilshire" store. On January 1, 1961, Broadway-Hale acquired The Marston Company; the acquisition consisted of a 240,000 square-foot store in downtown San Diego and a store under construction at La Mesa, in suburban San Diego, that now operate under the name

"Broadway-Marston's." In June 1962, Broadway-Hale acquired Korrick's, Inc., Phoenix, Arizona; its two department stores are now operated as a division of Broadway-Hale. In February 1963, Broadway-Hale acquired Smith & Lang Co., a department store in Stockton, California, which now operates under the name "Weinstock, Lubin."

5. Broadway-Hale is and for many years has been extensively engaged in the purchase across state lines of goods for resale and in the shipment of goods across state lines. Broadway-Hale is engaged in "commerce" within the meaning of the Clayton Act.

III. EMPORIUM CAPWELL

6. The Emporium Capwell Company, hereinafter referred to as "Emporium Capwell," is a corporation organized and existing under the laws of the State of California, with its principal office and principal place of business located at 835 Market Street, San Francisco, California 94103.

7. Emporium Capwell is the leading department store company in the San Francisco Bay area of Northern California. Its ten, well-located department stores cover the entire Bay area, and have annual sales of approximately $150 million. Emporium Capwell's total assets are about $110 million, and its accumulated earnings are approximately $22 million.

8. Emporium Capwell is and for many years has been extensively engaged in the purchase across state lines of goods for resale and in the shipment of goods across state lines. Emporium Capwell is engaged in "commerce" within the meaning of the Clayton Act.

IV. NATURE OF TRADE AND COMMERCE

9. GMAF stores comprise the second largest group of retailers in the United States, with a sales volume of approximately $55 billion in 1963; they are exceeded in sales volume only by retail food stores. GMAF store sales represent approximately 23% of all retail sales in the United States.

10. Within the GMAF store group, department stores constitute the largest component, accounting for 37% of total GMAF store sales. Department stores, moreover, are the third most important group of retail stores in the United States, exceeded in sales volume only by food stores and automotive dealers and stores. Their national sales volume of approximately $20.5 billion in 1963 represented about 8% of all retail sales in the country.

Department stores account for approximately 35% of apparel sales, 43% of women's and children's apparel sales, and 46% of household linen and dry goods sales.

11. Department stores are recognized by the consuming public and in the trade as a distinct line of business:

(a) They are particularly favored by the public because they sell a cluster of commodities and services not duplicated by other retailers. They offer the opportunity to satisfy under one roof shopping needs for a wide varieity of merchandise, including apparel, household linens and dry goods, furniture, appliances, and other housewares. This package of products is combined with an array of services such as the extension of credit, delivery of goods, the sending of goods on approval with liberal return privileges, fashion shows, and a number of other services. Moreover, frequently they enjoy a favorable image of stability and respectability attributable, at least in part, to their size and importance as retailers in the communities which they service.

(b) In the last connection, department stores enjoy an image which derives, at least in part, from the fact that they are the major advertisers in the communities which they serve, usually advertising more than all other GMAF stores combined—as is the case in San Francisco, where the four leading department store advertisers alone account for four-fifths of total department store advertising and approximately as many lines of advertising as all other GMAF stores (including the remaining department stores) combined. As a result of department stores' enormous advertising expenditure, they frequently receive preferred treatment from newspapers in the form of free publicity.

(c) Statistics on department store sales and other economic data relating to department stores, institutionally classified as such, are regularly gathered and published by the United States Bureau of Census, the various Federal Reserve Banks, various State agencies, the National Retail Merchants Association, universities and other trade publications and organizations.

12. Since at least 1954, there has been a substantial degree of concentration in the department store industry. Moreover, between 1954 and 1961, concentration among department store chains steadily and significantly increased. The following represent the appropriate shares of department store sales commanded by the nation's largest department store chains with eleven or more department stores, during this period:

	1954	*1961*
Five largest	38%	41%
Ten largest	50%	56%
Twenty largest	57%	66%

13. The significant increase in concentration in the department store industry between 1954 and 1961 is largely attributable to the expansion of the major chains by mergers and acquisitions. During this period, the twenty largest department store chains have made approximately 60 acquisitions of department store companies throughout the United States, involving some 160 stores.

14. The competitive impact of mergers and concentration in the department store industry, and of the growth of national companies, has been felt both in local and national markets and on both the buying and selling sides of the markets in which department stores operate. On the selling, or retail, side of the market, mergers have become a substitute for internal expansion into new markets by existing department store companies, such as Broadway-Hale. The merger movement has thus eliminated potential competition and has tended to remove the threat of entry of department store companies and the restraining influence which the threat of such entry may have upon non-competitive behavior. The replacement of independent local concerns by national department store companies has tended to discipline the market behavior of smaller competitors reluctant to enter into competition with companies many times their size and with many times their financial resources, and has tended to bring about a deterioration of the vigor of competition among those national department store companies which face one another in several markets. On the buying side of the market, suppliers have tended to favor such national companies, because of their power as large buyers, with preferences and advantages over their purchasers.

V. VIOLATIONS CHARGED

15. Between September 28, 1956, and May 15, 1964, Broadway-Hale has acquired approximately 24% of the outstanding common stock of Emporium Capwell.

16. The Emporium Capwell acquisition by Broadway-Hale, viewed as a part of its series of acquisitions as alleged in Paragraph 4 herein, and in the context of the trend toward concentration and the merger movement in the department store industry

described in Paragraphs 12 and 13 herein, may substantially lessen competition or tend to create a monopoly in the department store industry and the GMAF store industry in the United States, and in the sale and purchase of apparel and other merchandise sold by department stores and GMAF stores throughout the United States or certain sections thereof, in violation of Section 7 of the Clayton Act, as more fully described below in Paragraph 17.

17. The effects of the foregoing violation have been and may be the following, among others:

(a) Competition generally in the retail sale of apparel and other merchandise distributed by GMAF stores, including department stores, may be substantially lessened;

(b) Concentration in the department store industry, the GMAF store industry, and in the sale of apparel and other lines of merchandise sold by department stores may be increased;

(c) Deconcentration in the department store industry, the GMAF store industry, and in the sale of apparel and other lines of merchandise sold by department stores may be prevented;

(d) Other acquisitions in the department store industry and the GMAF store industry may be encouraged or stimulated, thus multiplying the competitive impact of the instant acquisition, as hereinbefore described, and the department store industry and the GMAF store industry may thereby be transformed or further transformed from ones comprised of viable, independent, locally-owned businesses into concentrated and nationally-managed industries;

(e) Competition generally in the purchase by department stores and other GMAF stores and the sale by suppliers of apparel and other merchandise distributed by GMAF stores, including department stores, may be substantially lessened;

(f) The members of the consuming public may be denied the benefits of free and unrestricted competition in the department store industry and the GMAF store industry, and in the sale and purchase of apparel and other merchandise distributed by GMAF stores, including department stores.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the

caption hereof, to wit: the acquisition of the stock of The Emporium Capwell Company by the respondent Broadway-Hale Stores, Inc.; and the respondent having been furnished thereafter with a copy of a draft of complaint by the Bureau of Restraint of Trade and which draft of complaint, if approved and issued by the Commission, would charge respondent with violation of Section 7 of the Clayton Act, as amended; and

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

The Commission, having reason to believe that the respondent has violated Section 7 of the Clayton Act, as amended, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings and enters the following order:

1. Respondent Broadway-Hale Stores, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 600 South Spring Street, Los Angeles, California 90014.

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

ORDER

I

It is ordered, That, for five (5) years from the effective date of this order, respondent, Broadway-Hale Stores, Inc., shall cease and desist from acquiring, directly or indirectly, without first notifying the Federal Trade Commission and obtaining its consent, any department store or other GMAF store, or any interest in capital stock or other share capital, or any assets constituting a substantial part of all of the assets, of any concern engaged in the department store or other GMAF store business, other than The Emporium Capwell Company.

II

It is further ordered, That Section I of this order shall terminate if the Federal Trade Commission, through trade regulation rules or other like nonadjudicative industrywide proceedings, issues rules or guide lines covering the subject matter of this order.

III

It is further ordered, That, in the event the Federal Trade Commisssion, in any adjudicative or consent order proceeding involving a market extension acquisition of one or more department or other GMAF stores by a company which owns or operates one or more department stores, issues any order which imposes limitations on future such market extension acquisitions less restrictive than the comparable provisions of this order, then the Federal Trade Commission shall, on application of respondent, pursuant to Rule 3.28 of the Commission's Rules of Practice, reopen this proceeding in order to make whatever revisions, if any, are necessary and appropriate to bring the restrictions imposed on respondent herein into conformity with those imposed by such order.

IV

It is further ordered, That, within sixty (60) days after the effective date of this order, and every ninety (90) days thereafter, Broadway-Hale submit in writing to the Federal Trade Commission a report setting forth in detail the manner and form in which it is complying and intends to comply with the provisions of this order.

Commissioner Elman not concurring.

IN THE MATTER OF

ELECTRA SPARK COMPANY ET AL.

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

Docket 8274. Complaint, Jan. 13, 1961—Decision, April 20, 1966

Order adopting the initial decision on remand of a hearing examiner which dismissed, for lack of public interest, a complaint against three companies charged with falsely advertising automobile spark plugs.

Mr. Terral A. Jordan supporting the complaint.

Mr. R. Gettinger and *Mr. M. Gettinger,* New York, N.Y. (by *Mr. Irving J. Kaufman*), formerly for all respondents.

Bass & Friend, New York, N.Y., formerly for respondents Electra Spark Company, Lectra Sales Corporation, Mr. Fred P. Dollenberg (now deceased), and Mr. Bernard L. Silver.

Wolf, Block, Schorr and Solis-Cohen, Philadelphia, Pa. (by *Mr. Burton Caine*), for respondent Mr. Harry J. Petrick.

Rodman and Maurer, New York, N.Y. (by *Mr. Leroy E. Rodman*), for respondents Barilen Corp., Mr. Hyman Schlosberg, and Mr. Lawrence Serlin.

Respondent *Mr. Jack Howard, pro se.*

INITIAL DECISION ON REMAND BY DONALD R. MOORE, HEARING EXAMINER

FEBRUARY 23, 1966

PRELIMINARY STATEMENT

The complaint in this proceeding was issued by the Federal Trade Commission on January 13, 1961, and was duly served on all respondents. The complaint charges the respondents with misrepresentation in the sale of automobile spark plugs designated "Lectra Fuel Igniter," in violation of the Federal Trade Commission Act. After being served with the complaint, the respondents appeared by counsel and filed answer making certain admissions but denying generally any violation of law.

After assignment to two other hearing examiners, this case was reassigned to the present hearing examiner on November 30, 1961. Trial of the case was deferred to permit negotiations between counsel designed to obviate the necessity of hearings. However, as stated in the Reply of counsel supporting the complaint,* two proposed consent settlements negotiated by the parties were successively rejected by the Commission.

After further negotiations, a "Stipulation as to Facts and Proposed Order" was submitted by the parties, and on the basis of this stipulation, the hearing examiner, on March 31, 1964, entered an initial decision containing an order to cease and desist. By Final Order dated June 5, 1964 [65 F.T.C. 877], the initial decision was adopted as the decision of the Commission.

*Sometimes referred to herein simply as Reply.

By petition filed October 23, 1964, certain of the respondents requested that the Commission reopen the proceeding and set aside or modify the order to cease and desist. These respondents alleged in substance that one of the prohibitions in the order was contrary to the stipulation agreed to by the parties and was "unduly oppressive and burdensome. . . ." As a result, the Commission, on January 18, 1965 [67 F.T.C. 1347], reopened the proceeding; vacated and set aside the initial decision and the final order adopting it; and ordered that the "Stipulation as to Facts and Proposed Order" be withdrawn from the record and that the case be remanded to the examiner for trial.

Following the remand, efforts were made to reach agreement on a new stipulation of facts or, alternatively, to proceed with hearings. These efforts were thwarted, however, by a variety of factors, including the protracted illness of the principal respondent, Fred P. Dollenburg, terminating in his death on May 15, 1965. Negotiations continued with the remaining principal respondent, Bernard L. Silver, but delays ensued as a result of the withdrawal of his counsel from the case, as well as the protracted illness of Mr. Silver's wife, terminated by her death on December 5, 1965.

Meanwhile, certain of the other respondents filed motions to dismiss or equivalent documents, and on January 14, 1966, respondent Silver filed a motion to dismiss in affidavit form.

The case is now before the examiner for consideration of the motions filed by or on behalf of the individual respondents and one of the corporate respondents (now dissolved), together with the Reply of complaint counsel, in which he states that he does not oppose dismissal of the complaint as to all parties respondent, subject only to the customary reservation of the Commission's rights respecting future proceedings.

Specifically, the following motions are pending:

(1) Motion of respondent Harry J. Petrick to dismiss the complaint as to him, etc.;

(2) Motion of respondents Barilen Corp., and Hyman Schlosberg and Lawrence Serlin,* individually and as officers of said corporation, to dismiss the complaint as to them and each of them;

(3) Motion of respondent Fred P. Dollenberg to dismiss the complaint as to him;

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*It appears that the first name of this respondent is correctly spelled *Lawrence* (See Motion of Barilen Corp., et al.).

(4) Motion of respondent Jack Howard to dismiss the complaint as to him; and

(5) Motion of respondent Bernard L. Silver to dismiss the complaint as to him.

It will be observed that no motions have been filed on behalf of Electra Spark Company or Lectra Sales Corporation, as such. Counsel supporting the complaint raises no issue as to this technical deficiency but, as we have seen, specifically states that he does not oppose dismissal "as to *all* parties respondent" (emphasis added). On the basis of the present record, it is apparent that both these corporate respondents are dormant, if not moribund. Moreover, if dismissal is warranted as to the individuals who allegedly formulated, directed, and controlled the acts and practices of these corporations, there remains no real basis for continuing the proceeding as to the corporations. Actually, the failure of the parties to file formal motions to dismiss as to the two principal corporate respondents is a further demonstration of the nonexistence of these corporations as going entities.

In the circumstances, the examiner deems it appropriate to consider plenary disposition of the case on the present record. To insist on the filing of further motions would be empty formalism that would result only in additional delay. Sufficient facts are now before the examiner to permit an informed determination as to the proper disposition of the case as to all parties.

Before reaching the substantive question whether those facts warrant dismissal, it is necessary to consider the procedural question of the examiner's authority to rule on the pending motions (Rule 3.6; *R. H. Macy & Co., Inc.,* Docket 8650 (Order Denying Motion to Vacate Complaint, etc., February 4, 1965)) [67 F.T.C. 1349]. This threshold question arises because the ruling of the Commission in *Drug Research Corporation,* Docket 7179 (Order Vacating Initial Decision and Dismissing Complaint, October 3, 1963) [63 F.T.C. 998], might be interpreted as holding that it is "not within the authority and competence of the hearing examiner" to order dismissal on the grounds set forth in the pending motions. However, the examiner considers *Drug Research* to be distinguishable and has determined that the motions filed by respondents in the instant case, together with the Reply of complaint counsel, constitute a record sufficient to authorize, if not to require, the examiner to exercise the "adjudicative factfinding functions" delegated to him by the Commission (Sec. 8, Statement of Organization (August 1963); *cf.* Rule 3.6(e)).

In *Drug Research,* the motion to dismiss was filed by counsel supporting the complaint and was opposed by respondents. The motion was predicated primarily on the pendency of court proceedings against the respondents involving issues similar to those constituting the subject of the Commission's complaint. Consideration of this question and other questions required policy determinations not properly within the province of the examiner. The Commission held that the motion to dismiss "was addressed to the Commission in its administrative capacity, as the complainant . . . , and not in its adjudicative capacity" so that "the factors appropriate to the Commission's decision" were "not within the authority and competence of the hearing examiner. . . ."

Drug Research is not controlling here. In the instant case, there is no dispute between the parties, and the factual setting is different. For our purposes, the appropriate precedent is *American Music Guild, Inc.,* Docket 8550 (Order Remanding Proceeding to the Hearing Examiner, April 6, 1964) [65 F.T.C. 1296, 1297], where the Commission held that a motion to dismiss a complaint against corporate respondents which had been adjudged bankrupt was "properly before the hearing examiner and within his powers to decide." *Cf. The Logan–Long Company,* Docket 7906 (Final Order, December 14, 1965) [68 F.T.C. 1016], and *The Celotex Corporation,* Docket 7907 (Final Order, December 15, 1965) [68 F.T.C. 1021]. In *Logan-Long* and *Celotex,* the examiner granted motions to dismiss filed by counsel supporting the complaint reciting that information in their hands "disclosed facts inconsistent with some of the allegations contained in the complaint." The supporting statements of counsel supporting the complaint were not contradicted or questioned by the respondents and were accepted as the findings of fact. The Commission affirmed the action of the hearing examiner in each case, and it adopted each initial decision as the Decision of the Commission. *Cf.* also *Jefferson-Travis Incorporated,* Docket 7970, 61 F.T.C. 966 (1962), and *Thompson-Hayward Chemical Co.,* Docket 7527, 61 F.T.C. 323 (1962).

Having considered the complaint and answer, the motions of the respondents (in affidavit form or supported by affidavits), and the Reply of complaint counsel, the examiner makes Findings of Fact and enters Conclusions and Order, as follows:

FINDINGS OF FACT

On the basis of the complaint and answer, the motions and affidavits filed by the individual respondents, and the Reply of complaint counsel, the following facts have been established:

Respondent Electra Spark Company (incorrectly designated in the complaint as The Lectra Spark Company) is a corporation which was organized, existed, and did business under and by virtue of the laws of the State of New Jersey, with headquarters in Jenkintown, Pennsylvania. (Complaint and Answer) The stock of respondent Electra Spark Company was owned by respondent Fred P. Dollenberg, respondent Lectra Sales Corporation, and others* not parties to this proceeding. (Reply)

In 1959 the stock of Electra Spark Company was acquired by Amoskeag-Lawrence Mills, Inc., apparently to facilitate certain financing arrangements, and respondent Harry Petrick was installed as treasurer. Amoskeag-Lawrence disposed of its stock in 1961, and although the record is not altogether clear, it appears that the stock was reconveyed to the original owners. (See p. 2 of the affidavit of respondent Harry J. Petrick; Reply of Counsel Supporting the Complaint filed February 5, 1965.)

Respondents Fred P. Dollenberg and Harry J. Petrick were officers of Electra Spark Company, but it appears that respondent Dollenberg formulated, directed, and controlled the acts and practices of the corporation and that respondent Petrick was involved only as the representative of Amoskeag-Lawrence Mills, Inc., of New York, in connection with certain financing arrangements. (Reply) Petrick's affidavit recites that he had nothing to do with the advertising or sales policies and that, in any event, he severed his connection with Electra Spark in 1961.

By November 1961, respondent Electra Spark Company had ceased doing business. It appears that respondent Electra Spark Company is now subject to the jurisdiction of the Pennsylvania court that is supervising the administration of the estate of respondent Dollenberg. (Reply)

As recited above, and as set forth in the motion filed June 14, 1965, by the law firm of Bass & Friend, as well as in the death certificate attached to the reply of complaint counsel, respondent Dollenberg died on May 15, 1965.

Respondent Lectra Sales Corporation is a corporation which was organized, existed, and did busines under and by virtue of the laws of the State of New York, with offices at 222 Fourth Avenue, New York, New York. (Complaint and Answer) It was the

*The exact breakdown of the ownership interests is not known. The shareholding percentages set forth in the Reply of complaint counsel add up to 120 percent. From the record as a whole, it may be inferred that respondent Dollenberg was the dominant share holder.