It is further ordered, That this proceeding be, and it hereby is, dismissed against David T. Beals and Russell W. Kerr, now deceased.

It is further ordered, That the proceeding be, and it hereby is, dismissed as to the following persons in their individual capacities:

Miller Bailey	Sister Michaella Marie
E. B. Berkowitz	Russell H. Miller
T. R. Butler	Dr. William C. Mixson
Dr. Ralph Coffey	Gilbert C. Murphy
Tom J. Daly	Adolph R. Pearson
Abraham Gelperin	Walter A. Reich
Meyer L. Goldman	James R. Rich
Mack Herron	Dr. William J. Sekola
Maurice Johnson	James T. Sparks
Thomas M. Johnson	Nathan J. Stark
Walter N. Johnson	Harry M. Walker
James D. Marshall	Robert F. Zimmer

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

Commissioners Elman and Reilly dissented. Commissioner Elman has filed a dissenting opinion, and Commissioner Reilly has filed a dissenting statement. Commissioner Jones concurred and has filed a concurring statement.

IN THE MATTER OF

THE CROWELL-COLLIER PUBLISHING COMPANY ET AL.*

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

*Docket 7751. Complaint, Jan. 18, 1960—Decision, Sept. 30, 1966***

Order requiring a New York City publisher which sells its encyclopedias

*Now known as Crowell Collier and Macmillan, Inc.

**This order was made effective on Feb. 4, 1969, and applicable to the respondent parent corporation, its successor and the new subsidiary.

through door-to-door solicitation, to cease misrepresenting that its salesmen are conducting a survey, that it offers its books free or at a reduced price in return for the use of the customer's name, that its offer to sell is limited in time or to a select group, that its books are advertised nationally at any sum in excess of the usual sale price, that prices offered prospective customers constitute a savings, and failing to disclose at the time of first contact that the respondent's representatives are in fact salesmen of encyclopedias. The order also postpones its effective date until further order of the Commission.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Crowell-Collier Publishing Company, a corporation, and P. F. Collier & Son Corporation, a corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Crowell-Collier Publishing Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware. Respondent P. F. Collier & Son Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware. Respondent Crowell-Collier Publishing Company is a holding company and as such it dominates, controls and dictates the acts, practices and policies of respondent P. F. Collier & Son Corporation, a wholly owned subsidiary of respondent Crowell-Collier Publishing Company. Respondents have an office and principal place of business located at 640 Fifth Avenue, New York, New York.

PAR. 2. Respondents, among other things, are now, and for several years last past have been, engaged in the business of publishing, selling and distributing books, including an encyclopedia called Collier's Encyclopedia. Respondents cause their said books, including Collier's Encyclopedia, when sold, to be transported from the State of Indiana to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondents maintain, and at all times mentioned herein, have maintained, a substantial course of trade, is said books, in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 3. In the course and conduct of their business, as aforesaid, respondents have been, and now are, in direct and substantial competition in commerce with other corporations, individuals and firms in the sale of books of the same general nature as those sold by respondents.

PAR. 4. Respondents sell said books, including the Collier's Encyclopedia, at retail to the general public. Sales are made by agents, representatives or employees who contact prospective purchasers in their homes or at their places of business. Respondents furnish said agents, representatives or employees with sales kits, various books, pamphlets, circulars, and other advertising, sales and promotional material, including order blanks, instructions and sales talks. In their solicitation and sales presentation, said agents, representatives or employees make many statements and representations concerning their status, employment, and concerning the offer, the quality, composition, characteristics and price of respondents' said books, including the Collier's Encyclopedia. Some of these statements and representations are orally made by said agents, representatives or employees to the prospective purchaser, and some are contained in advertising and promotional literature displayed by said representatives to said prospective purchasers.

Typical, but not all inclusive, of said statements and representations are the following:

(a) That respondents are conducting a market research survey, a brand identification program or survey or a survey of a special list of people.

(b) That respondents' agent or representative calling on the prospect is connected with respondents' advertising or publicity department, and is not selling anything.

(c) That respondents are offering to give a set of Collier's Encyclopedia free or at a reduced price to the person being called upon providing the yearly supplements included in a combination offer are purchased.

(d) That the cost of the set of Collier's Encyclopedia is included in an covered by respondents' advertising budget and is being given free, or at a reduced price, to the person called upon in return for:

1. A letter giving his or her opinion and comments about said set of encyclopedia after it is received, and

2. Permission in writing to use the person's name in advertising their said encyclopedias.

(e) That the offer made of respondents' encyclopedia is a "special introductory offer," is not being offered to the public generally at that particular time and is only being offered to a specially selected group of people in the particular community at that time.

(f) That respondents' general sales promotion and offer of said encyclopedia will be conducted at a later date.

(g) That the annual supplement volume or year book usually and regularly sells for $10.00 and is being specially offered to the prospective customer for only $3.95.

(h) That certain books included in respondents' "combination offer" are given free of cost with the purchase of respondents' said encyclopedia and supplements or year books.

(i) That the set of said encyclopedia being offered to the prospective customer is nationally advertised for $389 or more.

(j) That the special offer as to conditions and price is limited to the time of the call on the prospective customer.

PAR. 5. Said representations were false, misleading and deceptive. In truth and in fact:

(a) Respondents were not conducting a market research survey, a brand identification program or survey, a survey of a special list of people, or a survey of any other nature.

(b) The agents or representatives were engaged in selling encyclopedias and other books to the prospect called on and were not connected with respondents' advertising or publicity department.

(c) Respondents did not give the set of said Collier's Encyclopedia free to the person called on, in case the yearly supplements were purchased, or for any other reason.

(d) The cost of the set to a purchaser of Collier's Encyclopedia was not included in or covered by respondents' advertising budget but was paid for in full by the customer. Respondents did not generally use the names of the customers in their advertising of said encyclopedia and books or letters of comment, and the practice of obtaining the signed consent of the customer agreeing thereto was only a device to lead the customer into the erroneous belief that the offer was a special one or constituted a reduced price and that the signed agreement consenting thereto is a prerequisite to quality for said offer. Many customers did not write respondents a letter listing his or her comments about said encyclopedia and respondents did not require or make any effort to require the customer to fulfill such agreement.

(e) Respondents' offer of said encyclopedia was not a special introductory offer or one made only to a specially selected group in a particular community at the time of the offer. In truth and in fact said offer was available to the public generally.

(f) The sales promotion of said encyclopedia was not to be held at a later date, but was being conducted at the time solicitations were being made.

(g) The annual supplement volume or year book did not usually and regularly sell for $10.00 but usually and regularly sold for $3.95.

(h) Books, other than the encyclopedia, included in respondents' combination offer, were not free of cost with the purchase of respondents' said encyclopedia and supplements or year book, as the cost of all such books, including said encyclopedia, was included in the contract price of the combination offer.

(i) The set of said encyclopedia offered the customer was one with a different and less expensive binding, and other features, from that nationally advertised $389 or more.

(j) Respondents' offer was neither special nor was it limited to the time when the call was made on the prospective customer.

PAR. 6. The use by respondents of the foregoing false, misleading and deceptive statements and representations has had, and now has, the tendency and capacity to mislead and deceive members of the purchasing public into the erroneous and mistaken belief that such statements were and are true, and to enter into contracts for respondents' products because of such erroneous and mistaken belief. As a result thereof, substantial trade in commerce has been, and is now being, unfairly diverted to respondents from their competitors, and substantial injury has been, and is being, done to competition in commerce.

PAR. 7. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair and deceptive acts and practices and unfair methods of competition, in commerce, within the intent and meaning of the Federal Trade Commission Act.

Mr. Charles S. Cox for the Commission.

Whitlock, Markey & Tait, by *Mr. Thomas S. Markey* and *Mr. William W. Rayner,* Washington, D.C., for respondents.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER [1]

SEPTEMBER 3, 1965

NATURE OF CASE—THE ISSUES

This is a proceeding brought under the Federal Trade Commission Act against the two respondent corporations charging them with unfair methods of competition and unfair and deceptive acts and practices in commerce in violation of Section 5 thereof (15 U.S.C.A. § 45). In substance the complaint alleges that in the sale of respondents' books, including the Collier's Encyclopedia, at retail to the general public, by and through the solicitations of, and sales presentations made to members of the public by respondents' agents, representatives or employees, respondents now make and for several years past have made many false, misleading, and deceptive statements. These are alleged to relate to such employees' status and employment and also to the nature of the sales offer and the quality and price of respondents' books in commerce in competition with others. These representations were alleged to have been made both by oral statements and representations and also by some which were contained in advertisements and promotional literature displayed to prospective purchasers. (Complaint, Paragraphs Two, Three and Four.) It is also charged that as a holding company respondent The Crowell-Collier Publishing Company dominated, controlled and dictated the acts of the other respondent which was a wholly owned subsidiary thereof. (Complaint, Paragraph One.) The complaint then sets forth (Complaint, Paragraphs Four and Five) ten different types of such alleged misrepresentations by both respondents.

Each of the respondents in its separate answers denies all the allegations of the complaint made in Paragraphs Four, Five and Six thereof charging the making of such false representations by them or by their agents, and further denies the legal conclusions of Paragraph Seven of the complaint. Each of them admits in its separate answer the corporate capacity of each of the respondents as then existing and that the respondent P. F. Collier & Son Corporation at that time (March 30, 1960), was a wholly owned subsidiary of respondent The Crowell-Collier Publishing Company, whose correct corporate name is recited in both answers as The Crowell-Collier Publishing Company (Paragraph One of each answer).

[1] In the answer of each respondent reference is made to the correct title of this corporation as The Crowell-Collier Publishing Company.

Pleading further the respondent The Crowell-Collier Publishing Company in its answer denies that it dominates, controls, or dictates the acts, practices and policies of P. F. Collier & Son Corporation (Paragraph One), and also denies therein that it is in the business of publishing, selling or distributing books in commerce (Paragraph Two).

The respondent P. F. Collier & Son Corporation also pleading further admits in its answer (Paragraph Two) that as of the time its answer was filed (March 30, 1960), and for several years prior thereto, it was engaged in the business of publishing, selling and distributing books, including Collier's Encyclopedia, but further specifically denies (Paragraph Three) that it is in substantial competition with other corporations, individuals, and firms in the publishing and sale of books of the same general nature. It admits (Paragraph Four) that it sells through solicitors who contact prospective purchasers at their homes or places of business; and also admits that it furnishes sales kits and other materials to its solicitors and that they exhibit some of such material and also make oral presentations to prospective purchasers of this respondent's books.

Each of the respondents moved for dismissal of the complaint in its respective answer and subsequently renewed its motion to dismiss at appropriate times as hereinafter more fully stated.

The two basic factual issues under the pleadings were: (1) whether both or either of the respondents engaged in the unlawful practices charged; and (2) whether the respondent The Crowell-Collier Publishing Company, as the parent corporation of its wholly owned subsidiary P. F. Collier & Son Corporation, dominated, controlled or dictated the acts, practices and policies of such subsidiary so as to make it liable for the acts of the latter's representatives, agents and employees. A third basic issue of fact developed comparatively early in the trial when it was established that P. F. Collier & Son Corporation had been dissolved about January 1, 1961. No attempt was made then or later to cause the complaint to be amended properly to include its successor corporation P. F. Collier, Inc., as a respondent in the place and stead of the dissolved corporation.

There was also the necessary concomitant intangible issue of public interest which is an intangible one arising out of the facts and circumstances of the case.

In this initial decision the charges of the complaint are dismissed as to each of the respondent corporations for failure of

proof, the specific grounds thereof as to each respondent being hereinafter determined and discussed more fully under the heading "Findings of Fact," and appropriate separate subcaptions thereof. It is also found that there is no substantial public interest warranting a cease and desist order herein. The evidence upon the issues relating to the alleged false, misleading and deceptive statements and representations comprises by far the large bulk of the evidence in the rather extensive record herein. But since such issues have become entirely moot and immaterial by reason of the rulings made in this initial decision as to the nonliability of the two respondent corporations, no attempt has been made to analyze and discuss such numerous issues and the considerable evidence relating thereto, except as certain small portions of such evidence pertain also to the specific grounds of dismissal, including the lack of public interest. Review of such moot and immaterial issues and evidence would serve no useful purpose and only unduly and unnecessarily extend this initial decision.

This case, while involving apparently simple issues of fact, was strongly contested, involved numerous hearings in a number of cities, and became a long drawn-out trial due to many circumstances. Since this case was tried at intervals fixed by the hearing examiner as authorized by the Commission's earlier Rules of Practice,[2] due to the heavy docket of Commission cases which both the hearing examiner and complaint counsel were then carrying, as well as the involvement of respondents' counsel in much other litigation, including other matters before this Commission, and several active duty periods of Naval Reserve service by complaint counsel, the setting and resetting of hearings became a complicated matter on many occasions in order to avoid conflicts with other important matters affecting the said various

[2] This case was tried under the Commission's Rules of Practice for Adjudicative Proceedings, published May 6, 1955, in full force at the time this proceeding was instituted and during the period of 17 months thereafter wherein numerous hearings were held. Such Rules were retained in force in large part by the Commission's Statement relative to its amended and revised Rules and setting forth such Rules, which Statement was promulgated on June 29, 1961, and ordered to be published in the Federal Register. These amended and revised Rules were so duly published on July 6, 1961, and became effective 15 days thereafter. In order to dispel any confusion within its staff as to the application of such Rules to adjudicative cases which had been instituted prior to the effective date of the new and amended Rules, the Commission on July 17, 1961, by notice to its appropriate employees, interpreted its said new and amended Rules to apply only to certain areas of adjudicative procedure in such pending cases, which insofar as pertinent to this case apply only to the time for preparation, manner of service, and methods of review of the initial decision. In the course of this proceeding at bar the Commission adhered to this interpretation and held that in this case wherein evidence was not completed on July 21, 1961, the examiner could fix further hearings at intervals without requesting the Commission to set them. For this ruling see the Certificate of Necessity filed May 28, 1963, and the Commission's Order returning it issued June 17, 1963.

participants in the trial of this proceeding. Furthermore, a large part of the record, that made in several Pacific Coast cities, was stricken for administrative reasons as hereinafter more fully stated. The seven months' illness of the hearing examiner after the evidence was substantially completed, followed by several months of illness on the part of complaint counsel, all within the past 13 months, together with a number of family deaths and other personal complications occurring with respect to the examiner and counsel have also greatly contributed to extending the length of time this case necessarily has been pending.

HISTORY OF THE LITIGATION

The complaint herein was issued January 18, 1960, and after service thereof the respondents, in due course, filed their separate answers on March 30, 1960. Prior to such filings, however, the corporate respondent The Crowell-Collier Publishing Company, on March 21, 1960, had moved to dismiss the complaint against it, alleging that while it then owned the stock of respondent P. F. Collier & Son Corporation and rendered financial and advisory services to it and to its other subsidiary companies, The Crowell-Collier Publishing Company itself, as a corporate entity, did not engage in any sales activity or participate in the actual sales management of the P. F. Collier & Son Corporation, full responsibility for the latter's operations, including its sales management, being reposed and vested in its own officers.

This motion to dismiss, which complaint counsel opposed on March 24, 1960, raised as a question of law the lack of jurisdiction of the Federal Trade Commission to proceed against such moving respondent and set forth a number of authorities supporting said respondent's position. This motion was denied as premature on March 24, 1960.

Each of the respondents in its respective answer, filed March 30, 1960, as already stated, moved for dismissal of the complaint against it.

Again, on September 28, 1962, respondent The Crowell-Collier Publishing Company moved that such complaint be dismissed against it on the ground that the record as then made did not establish facts sufficient to constitute *prima facie* proof of the allegations of the complaint against such respondent. A similar motion was filed on said date by P. F. Collier & Son Corporation. These motions were ordered by the hearing examiner to be considered as though filed at the close of the case-in-chief. On Febru-

ary 14, 1963, an order deferred ruling upon such motions until the close of the case for the reception of evidence and considered them as filed at such close. This order had been delayed due to some further testimony having been taken by the parties in the intervening period.

This order of February 14, 1963, deferring ruling on the said motions to dismiss was made pursuant to the practice authorized by what was then Section 4.6(e) of the Commission's Rules of Practice for Adjudicative Proceedings, June 1962, which is currently a part of Section 3.6(e) of the Commission's said Rules, issued in August 1963. This rule then and now provides:

> . . . When a motion to dismiss is made at the close of the evidence offered in support of the complaint based upon an alleged failure to establish a *prima facie* case, the hearing examiner may, if he so elects, defer ruling thereon until the close of the case for the reception of evidence.

In his said order of February 14, 1963, the examiner clearly set forth the reason for the exercise of his discretion in making such ruling and stated therein that it was not made or to be considered or taken as a finding of fact or a disposition of any issue in the proceeding. This ruling avoided more than one review of the record by the Commission thereby according itself to the said rule's other provision which directs disposition of all material issues as to all parties by the examiner in one initial decision. The whole record may be reviewed at one time by the Commission.

Counsel for respondents thereupon proceeded to present extensive evidence relating to the issues of the alleged misrepresentations before resting their defense. As the examiner now views the record, such counsel evidently proceeded with the presentation of such evidence only out of a proper professional superabundance of caution.

After the issues had been joined numerous hearings were held for the presentation by complaint counsel of the case-in-chief in the following cities: Washington, D.C.; New York, N.Y.; Pittsburgh, Pa.; Detroit and Flint, Mich.; Springfield, Ohio; and Chicago, Ill.

The record as it now stands shows that complaint counsel called 59 consumer-witnesses, the chief executive of respondent The Crowell-Collier Publishing Company, and two executives who held such positions in respondent P. F. Collier & Son Corporation prior to its dissolution, as well as two former sales supervisors and five former salesmen of such dissolved corporation. Deferred cross-examination of many of the consumer-witnesses who

admitted writing letters to the Federal Trade Commission became necessary due to the failure or refusal of complaint counsel to reveal their names in advance of the hearings whereat such witnesses testified, it being impossible for respondents' counsel to have available with them at the various places of hearings corporate records and other information respecting such witnesses.

Respondents, in the presentation of their respective defenses at numerous hearings in the same cities and also in Des Moines, Iowa and Hartford, Conn., called 31 consumer-witnesses (many of whom were spouses of certain consumer-witnesses called by complaint counsel), five former sales managers and five former salesmen of the dissolved respondent P. F. Collier & Son Corporation, as well as taking depositions of five other consumer-witnesses and five other former sales managers in a number of places.

The case was formally closed for taking evidence on June 15, 1965 and has been submitted for initial decision upon the record and the proposed findings, conclusions and orders of the respective parties filed herein.

The record consists of 3,671 pages, less 670 deleted pages which covered proceedings on the Pacific Coast which were stricken, and also the evidence of three witnesses who testified at hearings in other areas which were also stricken for good cause (see footnote 3, post). Over 170 exhibits offered by complaint counsel and 42 exhibits of the respondents are in evidence. These exhibits consist of various brochures and spreads used by agents of P. F. Collier & Son Corporation, certain sales training material purported to have been used by such respondent, a number of contracts of purchase by buyers of the said respondent's combined offer of the Collier's Encyclopedia with other volumes, a bookcase and reference service coupons, some miscellaneous documents and a number of letters admittedly written by consumer-witnesses to the Commission, which latter were each produced after strenuous resistance by complaint counsel upon a special order of the hearing examiner. Such orders were made in strict accordance with the principles first laid down in the ruling made in *Sun Oil Company*, Docket 6934, issued December 15, 1958, authorizing and prescribing the procedure and after screening by the examiner, the use of proper and relevant letters or other written statements made in the possession of the Commission which had been signed by witnesses called in its behalf in adjudicative cases which ruling has been followed in a number of later cases.

The case was completed, both parties rested and the record closed for the taking of evidence on June 15, 1965. Counsel for respondents have subsequently formally again renewed their respective motions to dismiss the complaint in their proposed findings, conclusion and order.

The docket pertaining to the pleadings and other filings made in the case show that there were many orders issued throughout the case. These were required by the spread and extent of the evidence taken therein, the numerous motions and oppositions thereto filed by the respective parties from time to time, and the several interlocutory certificates to the Commission.

While detailed reference to nearly all of such numerous orders herein is deemed superfluous, it may be observed that on two occasions complaint counsel sought to take interlocutory appeals from certain material rulings of the hearing examiner. On July 1, 1963, the examiner issued an order striking all evidence theretofore taken in hearings held in cities on the Pacific Coast, including exhibits received thereat, and rejected offers of evidence and all rulings and other proceedings which were held on and between February 16, 1961, and March 1, 1961, incorporated in pages 1046–1545 inclusive of the transcript and that which was presented on and between January 8,1963, and January 15, 1963, incorporated in pages 2500–2671 inclusive of the transcript which were ordered separated and maintained physically in accordance with Section 4.12(f) of the Commission's Rules of Practice for Adjudicative Proceedings then in force. This order recited that it was made for administrative reasons, including the return to him of a certificate of necessity to the examiner by the Commission on June 17, 1963 (referred to in footnote 2 hereof), directing expedition by him and all concerned in the further proceeding of the case. On July 8, 1963, complaint counsel filed his request to file an interlocutory appeal from the said order of July 1, 1963, which was opposed before the Commission by respondents' memorandum filed July 15, 1963. The Commission on July 17, 1963, made its definite and final ruling denying such request of complaint counsel and therefore the evidence so stricken from the record is not part thereof for any purpose after the date of said order and cannot at this time be lawfully reinstated or referred to. Other evidence stricken upon failure of certain witnesses to appear for cross-examination upon due notice likewise is not part of the record.[3]

[3] See Order sustaining motion to strike the evidence of Shirley (Mrs. Robert) Badertscher

Another interlocutory appeal was requested by complaint counsel from rulings filed by the hearing examiner on August 17, 1964, containing confirmatory rulings of rulings at trial sustaining respondents' motion to quash a subpoena ad testificandum for one David H. Kidd and rejecting his evidence proffered as rebuttal at a hearing held on July 21, 1964, on the basis that the offer of his testimony showed it was evidence attempting to reopen the case by testimony which should have been given, if at all, during the case-in-chief. This was also opposed by respondents. As a matter of fact the offer of evidence stated that it related to circumstances surrounding the witness Kidd seeking employment as a book salesman on June 1, 1964 (R. 3605–6). At this time the respondent P. F. Collier & Son Corporation already had been dissolved, as hereinafter found, in late 1960, more than three and one-half years prior to this hearing, and the business of selling books thereafter was carried on by a new successor corporation, P. F. Collier, Inc., which has never been made a party to this case. The testimony of Kidd in any event would have related to his dealings with such nonparty corporation's representatives (R. 1547, 1549–50, 1552) and was, therefore, wholly irrelevant and immaterial in any view of this case. This request of complaint counsel was filed September 25, 1964, and on October 5, 1964, the Commission denied the appeal (also involving other unrelated matters to this point) on the basis that there was no showing that the ruling involved substantial rights materially affecting the final decision.

The hearing examiner has given full, careful and impartial consideration to all the evidence presented now in the record, including any and all exhibits, stipulations of fact and the depositions taken and filed herein, and to the fair and reasonable inferences arising from all facts established by such evidence. Cross-examination and reexamination of witnesses had been liberally allowed in order that all relevant and material evidence might be fully presented by the respective parties. He has also given like consideration to all those facts pleaded in the complaint which are expressly admitted by the respective answers of respondents. The burden of proof has been, and is at all times, upon the Commission as to all disputed facts under Section 7(c) of the Administrative Procedure Act (5 U.S.C.A. §1006(c)) and §3.14(a) of

(R. 2153), and R. 2220–2 denying request to hear her testimony at another time and place; also see written Order of July 14, 1964, striking evidence of Mrs. Dorothy M. Wise and John Close for failure of her husband, Raymond M. Wise, on two occasions to respect and obey subpoenas served upon him at respondents' request involving the same transaction.

the Commission's Rules of Practice for Adjudicative Proceedings, August 1963. The evidence now officially of record as received in this proceeding has been received pursuant to the provisions of said Section 7(c) of the Administrative Procedure Act and the Rules of the Commission adopted pursuant to such Act, particularly §3.14(b) of such Rules whereby there has been received such evidence as has been found to be relevant, material and reliable while that which has been deemed irrelevant, immaterial, unreliable, and unduly repetitious has been rejected in the first instance or subsequently stricken from the record by orders to that effect.

Therefore, upon due consideration of all of the material issues of fact as hereinbefore determined which have been presented upon the whole record and from his personal observation of the conduct and demeanor of the witnesses while testifying and his careful examination of the depositions filed and of all of the exhibits which are still in evidence, the hearing examiner finds that there has not been established by a preponderance of reliable, substantial, and probative evidence either any lawful cause for complaint against respondent corporations or either of them or a showing of any specific and substantial public interest in this proceeding warranting the issuance of any order against either of said respondents and that the complaint herein should be dismissed as to each of them. The hearing examiner makes the following specific findings of fact together with the reasons or basis therefor. All proposed findings of fact, conclusions of law and orders filed by counsel herein have been carefully studied in the light of the whole record, and those which are not incorporated in this initial decision, either verbatim or in substance and effect, are hereby rejected.

FINDINGS OF FACT

In General

The hearing examiner has made three distinct sets of findings of fact in the following order: first, as relate to the respondent The Crowell-Collier Publishing Company; second, as relate to the respondent P. F. Collier & Son Corporation; and third, matters pertaining to the issue of public interest in this proceeding. The findings of fact herein made are as follows:

Respondent The Crowell-Collier Publishing Company Is Not Subject to an Order

No order can issue against the respondent The Crowell-Collier Publishing Company in this proceeding as it neither has engaged in commerce nor did it dominate the acts of the other respondent complained of.

The respondent, The Crowell-Collier Publishing Company, is a corporation organized and existing under and by virtue of the laws of the State of Delaware, and has an office and principal place of business at 640 Fifth Avenue, New York, N.Y. These facts are alleged in Paragraph One of the complaint and admitted in Paragraph One of the answer of respondent The Crowell-Collier Publishing Company. There is also some confirmatory evidence relating to this location of this respondent's office (Cole, R. 97–8; Boe, 1550–1).

While it is alleged in the complaint (Paragraph Two) that the respondent The Crowell-Collier Publishing Company sustained a substantial course of trade in books in commerce, as "commerce" is defined in the Federal Trade Commission Act, this is denied in respondent's answer (Paragraph Two); and the evidence utterly fails to show that such respondent, in its own corporate capacity, ever did engage in interstate commerce. The examiner therefore finds that complaint counsel has failed to establish such material alleged fact.

Also there is no evidence which sustains the following material allegations of the complaint set forth in Paragraph One thereof:

> Respondent Crowell-Collier Publishing Company is a holding company and as such it dominates, controls, and dictates the acts, practices, and policies of the respondent P. F. Collier & Son Corporation, a wholly owned subsidiary of Crowell-Collier Publishing Company.

Complaint counsel actually proved the opposite of such allegations. Very early in the proceeding (August 3, 1960; R. 96–128), complaint counsel called as an adverse witness Wilton Donald Cole, Chairman of the Board of respondent The Crowell-Collier Publishing Company. He testified credibly that from February 15, 1957, until about July 2, 1957, he was temporary chairman and thereafter had been the chairman of such board and the corporation's chief executive officer (R. 96, 100). He further testified that since about November 1956 he had been a director of that company except for a short period between July 1957 and October 1 of that year (R. 96–7). When he first became such a director he

was a vice president and a director of Union Bag-Camp Paper Corporation, with which he had been identified for some 21 years (R. 97). He testified that since he was not familiar with the publishing business when he became a chairman of the board of The Crowell-Collier Publishing Company, he called in those officials of the respondent P. F. Collier & Son Corporation, namely John Boe and Norman E. Bennett, who were familiar with its operations and delegated to them authority to carry on the subsidiary's business (R. 100–4, 120–3). From the time when Cole first accepted his position, he delegated to the proper officials of each of the several subsidiary corporations of The Crowell-Collier Publishing Company full authority and responsibility, and never again assumed them. Before Raymond C. Hagel became president of P. F. Collier & Son Corporation, Boe was fully in charge of sales while Bennett was in charge of credits and collections and certain other administrative functions (R. 120–1). Norman E. Bennett, Vice President, also called as an adverse witness, fully corroborated the testimony of Cole. At the time he testified on August 4, 1960, he was the vice president of P. F. Collier & Son Corporation (R. 137–41). John Boe likewise testified to the same effect. At the time he testified on December 18, 1961, he was president of P. F. Collier, Inc., a sales organization, and that prior thereto for four months from September 1, to December 30, 1960, he had been the president of respondent P. F. Collier & Son Corporation as the successor to Hagel who had resigned this position (R. 1547–52). Boe further testified that he had been connected with P. F. Collier & Son Corporation for 21 years in various sales positions, starting as a salesman of books and magazines until he became a sales manager in 1940, which work he continued until 1944 when the magazines were discontinued and the company went to the sales of straight book combinations. He was sales manager in Detroit, Mich. until 1947 when he was appointed Midwestern superintendent of sales in Chicago, and while there he supervised 16 different sales districts in the Midwest (R. 1552–5). His testimony was given on his direct examination by complaint counsel, who also called him as an adverse witness; but there is no mention anywhere in this witness' testimony that he ever worked for The Crowell-Collier Publishing Company. In this connection, it should be stated that a careful examination of all of the exhibits in the record in the nature of contracts, brochures, spreads, and the like, demonstrates that the vast majority of them bear the imprimatur only of P. F. Collier & Son Corporation, while but a few

of them refer merely to "Collier's" or "Collier's Encyclopedia." There is absolutely no mention anywhere in such exhibits that they were produced, disseminated, or used in any way by respondent The Crowell-Collier Publishing Company. Furthermore, repeated study of the testimony of all the sales personnel called by either side in this case demonstrates beyond question that they were employed during this period of time by P. F. Collier & Son Corporation, and not a one of them ever mentioned that he was, or ever had been, employed by The Crowell-Collier Publishing Company.

As to consumer-witnesses, all of those who made specific mention of any book selling company referred to the P. F. Collier & Son Corporation. Their contracts were with it and they were dealing specifically with its agents. The only mention in the record of such wintesses' testimony that ever refers in any way to the respondent The Crowell-Collier Publishing Company is with respect to the passing testimony of some of those witnesses who had read newspaper articles in various newspapers about the bringing of this proceeding, which specifically and most pointedly referred to the respondent The Crowell-Collier Publishing Company as the party charged with misrepresentation in the sale of Collier's Encyclopedia. But there is very little of this kind of testimony and it is quite apparent that these witnesses never heard of The Crowell-Collier Publishing Company until they read such articles and testified concerning them.

Not only does the record disclose no evidence sustaining the foregoing material allegation of control of respondent P. F. Collier & Son Corporation by the respondent The Crowell-Collier Publishing Company, but the evidence is quite to the contrary as above indicated. It is undisputed that The Crowell-Collier Publishing Company is a holding company and was the parent company during its corporate lifetime of the P. F. Collier & Son Corporation. It is to be noted that none of the three witnesses—Cole, Bennett or Boe—called by counsel were ever further inquired of by him as to the connection between the two companies. Nor did he produce any documentary or other evidence even tending to support this essential portion of the charge against The Crowell-Collier Publishing Company.

The expenses of P. F. Collier & Son Corporation were paid by it as well as all publications it issued, including sales Standard Practices, brochures, and other necessary sales information. It occupied offices as a subtenant in the building leased by The Crow-

ell-Collier Publishing Company at 640 Fifth Avenue in New York City, and both corporations had in common only one officer, the Secretary. Such facts are not controlling here as dominance by The Crowell-Collier Publishing Company over the acts and practices of P. F. Collier & Son Corporation is not only not established but is completely negated by the evidence produced by complaint counsel himself.

As fully recognized by the Commission in pleading the domination of The Crowell-Collier Publishing Company over its subsidiary the respondent P. F. Collier & Son Corporation, the law is clear that in order to hold a parent company, which wholly owns a subsidiary corporation engaged in commerce, for the latter's liability for any of its acts and practices, "There must be evidence of such complete control of the subsidiary by the parent as to render the former a mere tool of the latter, and to compel the conclusion that the corporate identity of the subsidiary is a mere fiction." *National Lead Co. et al.* v. *Federal Trade Commission* (7 Cir. 1955), 227 F. 2d 825, 829 (Citing *Press Company* v. *National Labor Relations Board* (D.C. Cir.), 118 F. 2d 937, at 946–7, *cert. denied,* 313 U.S. 595; and *Owl Fumigating Corporation* v. *California Cyanide Co., Inc.* (3 Cir.), 30 F. 2d 812). The court of appeals in this decision held that there was no substantial proof that the Anaconda Copper Mining Co., the parent company, so controlled the National Lead Co., and held that the complaint should therefore be dismissed as to Anaconda, and also dismissed it as to National Lead Co. On certiorari proceedings by the Federal Trade Commission, it stipulated dismissal as to Anaconda and another corporation, International Smelting and Refining Co., although on the merits against National Lead Co. it obtained a reversal of the dismissal of National Lead Co. See *Federal Trade Commission* v. *National Lead Co.* (1957), 352 U.S. 419.

The general principle obtaining in any case wherein it is sought to hold the parent corporation for the contracts or torts of the subsidiary is that there must be either actual control or fraud, or wrong on the part of the parent corporation, whereby courts will go behind the corporate veil to determine where real liability should lie. See 13A Fletcher's Cyc. Corporations (Perm. Ed.) § 6222 and authorities cited. The rule is also clearly stated in 13 Am. Jur., Corporations, § 1382, pp. 1216–7, as follows:

> . . . A holding corporation has a separate corporate existence and, in accordance with the general rules already laid down, is to be treated as a sepa-

rate entity unless circumstances show that such separate corporate existence is a mere sham or has been used as an instrument of fraud.

. . . The rule, however, that ownership alone of capital stock in one corporation by another does not create an identity of corporate interest between the two companies, render the stockholding company the owner of the property of the other, or create the relation of principal and agent or representative between the two is not applicable where stock ownership has been resorted to not for the purpose of participating in the affairs of the corporation in the normal and usual manner, but for the purpose of controlling a subsidiary company so that it may be used as a mere agency or instrumentality of the owning company or companies.

The Commission has recently, on April 22, 1964, recognized this principle in Docket 7743, *In the Matter of Frank G. Shattuck & Co., et al.* (Opinion of Chairman Dixon, slip copy, pp. 1 & 2) [65 F.T.C. 315, 354, 355]. Respondents in their proposals have cited also an appropriate case: *Eastman Kodak Co.* v. *Schwartz* (1954), 133 N.Y. Supp. 2d 908, upholding the doctrine of separate corporate entities although defendant Eastman Kodak Co. did own all the stock of a subsidiary, Eastman Kodak Stores, Inc., which was a retail seller of Kodak products manufactured by defendant Eastman Kodak Co.

Insofar as the record in this case discloses other than merely holding the stock and exercising the usual rights incident to such ownership which must always be inferred where a parent company owns the stock of a subsidiary, there is no evidence of any attempt or act on the part of the respondent The Crowell-Collier Publishing Company to dominate, control, or dictate the acts of its said subsidiary the respondent P. F. Collier & Son Corporation. It must be inferred that, had there been such evidence, after the several years this case was under investigation, complaint counsel would have proceeded further to prove such facts and produced the books and records, and perhaps the testimony of other officers or employees of the respondent The Crowell-Collier Publishing Company, to establish them. In the absence of any such evidence, the examiner finds that the respondent The Crowell-Collier Publishing Company did not dominate, control or dictate the acts and practices of the respondent P. F. Collier & Son Corporation. It is therefore the duty of the hearing examiner to dismiss the complaint on the motion of said respondent The Crowell-Collier Publishing Company as against it for lack of evidence as to each of the said several material allegations so set forth in the complaint.

Respondent P. F. Collier & Son Corporation Is Not Subject to an Order

No Order can issue against the respondent P. F. Collier & Son Corporation in any event because it has been dissolved for nearly five years.

Respondent P. F. Collier & Son Corporation at the time its answer was filed on March 30, 1960, was a corporation organized, existing, and doing business under and by virtue of the State of Delaware and had its office and principal place of business at 640 Fifth Avenue, New York, N.Y. These facts are alleged in Paragraph One of the complaint and admitted by Paragraph One of the answer of respondent P. F. Collier & Son Corporation. There is also some confirmatory evidence as to its place of business (Cole, R. 114–5; Bennett, R. 151; Boe, R. 1550).

The respondent P. F. Collier & Son Corporation, however, was dissolved at about the end of December 1960. John Boe, the former president of P. F. Collier & Son Corporation, who was called as an adverse witness by complaint counsel, testified that P. F. Collier, Inc., was incorporated as a sales organization and that the respondent P. F. Collier & Son Corporation was dissolved about the first of 1961. From the facts given, the examiner stated on the record, without objection, that it was apparent, with reference to P. F. Collier & Son Corporation, such "company is no longer in business" (R. 1551). This testimony of Boe presented by complaint counsel is consistently credible, stands wholly uncontradicted in the record, and fully supports a finding of fact that said respondent was so dissolved.

It is to be noted in this connection that while rulings were made by the hearing examiner on December 18, 1961, intimating the necessity for an appropriate amendment of the complaint and the irrelevancy of proffered evidence which would only conditionally be received against P. F. Collier, Inc. (R. 1549–50), complaint counsel made no attempt at that time to amend the complaint to include as a respondent herein the said P. F. Collier, Inc., although long afterward an effort by him indicating a possible desire to so correct the complaint occurred in the taking of the deposition of respondents' witness Joseph G. Chappelle on March 23, 1964. Objections to certain questions on the cross-examination of Chappelle were subsequently sustained by the examiner on the ground that complaint counsel's inquiries were not proper cross-examination and not the best evidence of the corpor-

ate structure of the new corporation P. F. Collier, Inc. The examiner further ruled that if such inquiries were an attempt to amend the complaint at such late date, it would require an application to the Commission; and, if granted, in order to provide due process, a retrial of the whole case would be necessary unless by stipulation such retrial could be obviated. (See Order of July 7, 1964, filed July 8, 1964, pp. 2 & 3, last paragraph, which Order is in the docket file with the depositions.) No valid motion was ever made by complaint counsel, however, for leave to amend the complaint to include such new corporation as a respondent, and the case has proceeded to its conclusion against the dissolved P. F. Collier & Son Corporation. This has occurred although, in addition to the occasion of the Chappelle deposition hereinbefore referred to, on several occasions well knowing of such dissolution he endeavored to call new witnesses as to transactions which clearly occurred long after the dissolution of the respondent P. F. Collier & Son Corporation and could not, and did not, refer to such respondent. Reference has already been made to complaint counsel's attempt on July 21, 1964, to obtain such kind of evidence as purported rebuttal evidence from the proffered testimony of David H. Kidd. Two other examples are pointed up in counsel's own request for an interlocutory appeal filed September 25, 1964 (p. 4). The first of these related to his attempt on April 6, 1962, in Chicago to get leave to present as a witness the Attorney General of Wisconsin (R. 1820–2) "to show the representations [alleged in the complaint] are still being made . . ." (R. 1821). Another such offer was made on April 12, 1962, in Pittsburgh, Pa. to take the testimony of two women of that area (R. 2000–4) whose proffered evidence complaint counsel stated had just come to his notice and which concerned the method of approach to such women by certain book salesmen "subsequent to the last hearing in Pittsburgh in this matter" (R. 2001). The last prior hearing in Pittsburgh had been held on September 13, 1960 (R. 344–419). Therefore this proposed evidence would necessarily relate to circumstances after that date late in 1960, and since no specific dates as to such alleged transactions were stated by counsel and the proposed witnesses had only newly come to light, it has been reasonably concluded by the examiner that their alleged dealings with such book salesmen were long after the dissolution of P. F. Collier & Son Corporation which occurred shortly after such hearing.

There is no competent evidence that the new corporation P. F.

Collier, Inc., is the successor to the dissolved respondent P. F. Collier & Son Corporation. Complaint counsel drew out some rather vague testimony from Boe that the new corporation sold Collier's Encyclopedias and occupied the same offices as did the dissolved corporation (R. 1548–51). But counsel then went extensively into other subjects—the history of the witness Boe with the dissolved corporation, and its organization, practices, and business (R. 1551–97)—and the witness was excused (R. 1597). He was never recalled, and neither from him nor from any other witness did complaint counsel ever develop whatever corporate relationship, if any, the present P. F. Collier, Inc., bears to the dissolved P. F. Collier & Son Corporation. And the examiner is precluded by law from speculating in this regard.

The general law applicable to judgments and decrees relating to dissolved corporations is well established. In 13 Am. Jur., Corporations, §1342, p. 1191, it is stated:

> Apart from statutes extending the existence of, or conferring powers upon, corporations for the purpose of winding up their affairs, the dissolution of a corporation implies the termination of its existence and its utter extinction and obliteration as an entity or body in favor of which obligations exist or accrue or upon which liabilities may be imposed. (Citing numerous U.S. Supreme, Federal and other cases.) See also 19 C.J.S., Corporation, § 1727.

In 13 Am. Jur., Corporations, §1356, p. 1200, it is further stated:

> In the absence of a statutory provision to the contrary, a judgment recovered against a corporation after its dissolution is regarded as a nullity, even though the action may have been commenced before such dissolution. See also 19 C.J.S., Corporations,§ 1735–6, pp. 1500–1.

In 16A Fletcher's Cyc. Corporations (Perm. Ed.), §8150, p. 348, it is said:

> Abatement of suit by reason of the dissolution of a corporate party effectively puts an end to the suit and arrests all procedure therein.

The same authority further says in Vol. 16A, § 8147, pp. 335–6:

> . . . All pending suits and actions . . . against a corporation are abated by a dissolution of the corporation, irrespective of the mode of dissolution.

Vol. 13 Am. Jur., Corporations, § 1354, p. 1199, also states:

> Except as otherwise specially provided by statute, the established general rule is that after the dissolution and termination of the existence of a corporation, no action can be maintained against it, and it has no capacity to sue; and this is true whether the action is one in personam or one in rem.

Almost from the beginning of the Federal Trade Commission, a long line of judicial decisions has consistently held that the Commission's orders look only to the future and the Supreme Court has expressly so decided in *F.T.C.* v. *Ruberoid Co.* (1952), 343 U.S. 470, 472, holding:

> Orders of the Federal Trade Commission are not intended to impose criminal punishment or exact compensatory damages for past acts, but to prevent alleged practices in the future.

See also the following cases from other Federal jurisdictions holding repeatedly to the same effect. *Niresk Industries, Inc.* v. *F.T.C.* (7 Cir. 1960), 278 F. 2d 337, 343, *cert. denied,* 364 U.S. 883; *Erickson etc.* v. *F.T.C.* (7 Cir. 1960), 272 F. 2d 318, 322, *cert. denied,* 362 U.S. 940; *New Standard Publishing Co., Inc.* v. *F.T.C.* (4 Cir. 1952), 194 F. 2d 181, 183; *P. Lorillard Co.* v. *F.T.C.* (4 Cir. 1951), 186 F. 2d 52, 58; *American Chain & Cable Co.* v. *F.T.C.* (4 Cir. 1944), 142 F. 2d 909, 911; *Hill et al.* v. *F.T.C.* (5 Cir. 1941), 124 F. 2d 104, 106; *California Lumbermen's Council* v. *F.T.C.* (9 Cir. 1940), 115 F. 2d 178, *cert denied,* 312 U.S. 709; *United Corp. et al.* v. *F.T.C.* (4 Cir. 1940), 110 F. 2d 473, 475–6; *Ritholz et al.* v. *March* (D.C. Cir. 1939), 105 F. 2d 937, 939; *Chamber of Commerce etc.* v. *F.T.C.* (8 Cir. 1926), 13 F. 2d 673, 685.

A logical sequence to this so firmly grounded rule of law is that one which states that the Commission's jurisdiction "must exist at the time of the entry of its order," *United Corp.* v. *F.T.C., supra,* 110 F. 2d at p. 475–6, following *Chamber of Commerce* v. *F.T.C., supra,* 13 F. 2d at pp. 673–85, and analogous judicial decisions in equity jurisprudence.

In *Galter* v. *F.T.C.* (7 Cir. 1951), 186 F. 2d 810, 815–6, *cert. denied,* 342 U.S. 818, it was held that since the dissolution of two of the Illinois corporations proceeded against was apparent on the record, the Commission should have dismissed as to them. This was so held although such dissolutions were first directed to the Commission's attention late in 1943 after the case had been commenced on February 4, 1941, and hearings had been held until February 27, 1942, when it was stipulated that the Commission could decide the case upon the record already made plus facts stipulated at the time. The Commission did not decide the case, however, until August 14, 1947. The court analyzed the Illinois statute providing for the continued existence of a dissolved corporation, including proceedings relating to the corporation's liabil-

ity for acts performed by it prior to its dissolution, but held that this

> . . . does not make . . . [such a dissolved corporation] . . . subject to an injunction against acts to be performed in the future . . . (citing authority) . . . . Thus it seems clear that the Commission, when the dissolution of the corporate petitioners was brought to its attention, should have amended its order by striking therefrom the names of the . . . [said two dissolved corporations] . . . .
>
> The order of the Commission is modified from striking therefrom . . . the names of [the said two dissolved corporate respondents] . . . .

The Commission in subsequent cases has followed this principle without any departure therefrom insofar as the examiner's research has revealed. For an earlier case so holding see *Clairol, Inc.*, 33 F.T.C. 1450, 1455, 1458, dismissing the corporation entitled Clairol Incorporated which was organized for the purpose of taking over the business formerly conducted by the respondent Clairol, Inc., the latter having been dissolved subsequent to the transfer of its assets and business. This case was affirmed *sub nom. Gelb* v. *F.T.C.* (2 Cir. 1944), 144 F. 2d 580–1. In several recent cases the Commission has dismissed complaints against corporations shown to have been dissolved. See Docket 7134, *Bearings Inc. et al.* (Initial Decision, March 6, 1962, pp. 7, 18; and Opinion of the Commission, January 22, 1964, by Chairman Dixon) [64 F.T.C. 373, 395]; and Docket 7592, *Arkla-Tex Warehouse Distributors Inc.*, Second Initial Decision issued February 18, 1965 [73 F.T.C. 846].

It is admittedly true that the dissolved corporation was a Delaware corporation. It has been repeatedly held in recent years that pending Federal criminal proceedings continue against Delaware corporations since the corporation statutes of that state provide "that any 'proceeding' begun by or against a corporation before or within three years after dissolution shall continue 'until any judgments, orders, or decrees therein shall be fully executed'." *Melrose Distillers, Inc. et al.* v. *U.S.* (1959), 359 U.S. 271, 273–4, *affirming*, 258 F. 2d 726. See also *U.S.* v. *Maryland and Virginia Milk Producers, Inc.* (D.C. D.C. 1956), 145 Supp. pp. 374–5. Numerous supporting cases are referred to in these last two cited cases. The *Melrose* case was one brought under Sections 1 and 2 of the Sherman Act, while the *Milk Producers* case was brought under 15 U.S.C.A., § 13(a), being Section 3, the criminal provision of the Robinson-Patman Act.

Of course the language of the Delaware Corporation Act is broad enough to sustain a holding that State pending civil actions or administrative proceedings may continue after the dissolution of a Delaware corporation, and undoubtedly such ruling would be held to apply generally to Federal civil cases or administrative proceedings. But an order issued in a proceeding under the Federal Trade Commission Act such as the one at bar is not a criminal prosecution nor one brought for "compensatory damages for past acts" (*F.T.C.* v. *Ruberoid Co., supra,* 343 U.S. at p. 473). The Commission's orders look only to the future. Such an order of the Commission, looking to the future, could not ever "be fully executed" against a corporation long since dead and out of business, as says the Delaware statute. An order in the case at bar against the dissolved corporation P. F. Collier & Son Corporation would be a nullity from the very date it issued. A Federal Trade Commission order to prevent future violations, although much more limited, is in the nature of an injunction. In *U.S.* v. *W. T. Grant Co.* (1953), 345 U.S. 629, 633, it is held:

> The purpose of an injunction is to prevent future violations, *Swift & Co.* v. *United States,* 276 U.S. 311, 326 (1928), and, of course, it can be utilized even without a showing of past wrongs. But the moving party must satisfy the court that relief is needed. The necessary determination is that there exists some cognizable danger of recurrent violation, something more than a mere possibility which serves to keep the case alive.

This decision is a practical illustration of the frequently applied well-known maxim of equity: "A court of equity does not do a useless act." See *U.S.* v. *General Motors Corp.* (D.C. S.D. Cal. 1964), 234 F. Supp. 85, 89. See also numerous Federal cases digested in 20 Mod. Fed. Pr. Digest, Equity, Key No. 54, pp. 939–42.

The examiner finds that the respondent P. F. Collier & Son Corporation was dissolved about the end of 1960 or the first of 1961. He must, therefore, dismiss the complaint on the motion of said respondent as against it for lack of evidence as to its current existence, which prevents the issuance of any valid order against it.

There Is No Showing of Public Interest Requiring an Order Against Either Respondent

The foregoing findings with respect to each of the two corporate respondents of necessity inherently include a finding that there is no public interest in the issuance of orders against either.

This absolute but intangible element of proof, however, has another facet which deserves discussion here.

This case having been tried under the Commission's former Rules at intervals and under circumstances hereinbefore set forth, time-wise has resulted in an extremely extended proceeding. The Federal Trade Commission is "under Congressional mandate to 'proceed with reasonable dispatch to conclude any matter presented'." *Dolcin Corp. et al.* v. *F.T.C.* (D.C. Cir. 1954), 219 F. 2d 742, 746, *cert denied,* 348 U.S. 981, citing § 6(a) of the Administrative Procedure Act, 5 U.S.C. § 1005(a). The Commission, quite evidently aware of this Congressional mandate and the judicial recognition thereof, has endeavored to speed up its procedures by its recent and current Rules so that the evidence presented in any case does not become stale and impaired in vitality long before the time for decision has arrived. Such a condition arose in the case at bar, which was not unusual in cases brought under the former Rules, with more litigation, fewer hearing examiners and heavier calendars. And while the delays have not been due to the fault of anyone connected with the trial, nevertheless the age of the evidence and other circumstances of record herein warrant a determination that it is not "to the interest of the public" to give further life to this proceeding. (Section 5(6)(b) of the Federal Trade Commission Act, 15 U.S.C.A. § 45(6)(b)) The viewpoint of the Commission with respect to vigorous implementation of these new Rules and policy, including its determination to terminate old and long-delayed litigation, but to keep any respondent concerning whom it has a suspicion of wrongdoing under close scrutiny, is well exemplified in a number of its recent decisions, several of which are now considered. In Docket 7134, *Bearings Inc., supra,* Chairman Dixon in his opinion points out that the complaint was issued on April 29, 1958, and the record closed at a final hearing on November 21, 1961, with the initial decision and order to cease and desist (which ran against all respondents except one dissolved corporation) filed March 7, 1962. The opinion then remarks that much of the evidence of importance took place in the years 1952–1956 and the most recent in 1957, which was about five years prior to the examiner's decision and seven prior to the Commission's. Other circumstances were pointed out in this opinion, including the dissolution of the said one respondent, but because of the lapse of time since the alleged violations took place, the facts being "cold and stale," the complaint was dismissed in its entirety although the Commission strongly admon-

ished the respondents that if they were found in future violation further action on the part of the Commission "will not be slow in forthcoming" (64 F.T.C. 373, 396, 397). Similarly, in Docket 7094, *Admiral Corporation,* a case brought under Sections 2(a) and (d) of the Robinson-Patman Act, the Commission dismissed the complaint filed March 26, 1958. Although it did find certain discrimination had taken place, the evidence of such practices related to the two-year period of 1956–1957. The case had been delayed by various circumstances including the death of the hearing examiner who heard the case-in-chief and by extensive evidence pro and con required by the nature of the case which was heard at intervals in different places under the Commission's former Rules and heavy case load. The Commission, while not specifically stating that the evidence was stale when the initial decision was filed September 12, 1963, held in substance that the respondent in its presentation of its 2(b) defense in the 2(d) phase of this proceeding "has been disadvantaged by the delay" and "has been harmed therefore through no fault of its own," although the Commission stated it had "instituted an investigation to determine whether a new complaint dealing with current practices is required by the public interest" (67 F.T.C. 375, 424).

In the case at bar, much of the evidence relates to transactions taking place in 1955 and 1956, although the bulk of it occurred in 1958 and 1959, and there is a little evidence of alleged violations in 1960. Now, between five and 10 years old, the alleged false representations, if made, were made by a corporation dissolved nearly five years ago. As hereinbefore stated, no attempt has been made by the examiner to review the credibility and weight of evidence pertaining to the alleged violations herein although counsel for the parties have presented and analyzed it in much extended detail in their respective proposals. But it is noted that the several attempts of complaint counsel to establish more recent violations than those occurring in 1960 indicate that he had some thought that the Commission would frown upon the antiquity of his evidence in support of the charges. Some of those attempts, which have been alluded to hereinbefore, will not be repeated here but there are still others such as his unsuccessful effort to draw evidence out of Reverend James Urquhart and his wife at the time of their deferred cross-examinations on April 11, 1962, pertaining to alleged current practices of salesmen (R. 1918–25). Furthermore, the examiner struck out, over complaint counsel's objection, certain volunteered evidence of witness William E. De-

Vinney (R. 3059) on October 29, 1963, and of witness James G. Freeburg (R. 3100, 3104–5) on October 30, 1963, which were of the same nature and likewise related to the more recent events which allegedly occurred long after the dissolution of P. F. Collier & Son Corporation.

In the Proposed Order submitted by complaint counsel, he also confirms his substantially apparent position during the hearings that much more recent evidence than that presented in the case-in-chief is vital to the effectiveness of an order involving a dissolved corporation. He seeks to include the said P. F. Collier, Inc., as a party to be bound by said Order although it was never made a party to the litigation. Such an order is most unusual and patently contrary to law and fact and is, of course, denied.

The examiner feels, particularly in view of the fact that P. F. Collier & Son Corporation was dissolved nearly five years ago that the general policy so explicitly expressed and exemplified by the foregoing cases is indicative that the Commission would find as the examiner does find, that there is no longer any public interest in the maintenance of this particular proceeding. Such public interest must be (1) present, (2) specific, and (3) substantial under the controlling decisions. The evidence herein fails on all three counts.

CONCLUSIONS OF LAW

Upon the foregoing facts and legal authorities, the hearing examiner makes the following conclusions of law:

1. A valid order to cease and desist herein cannot be issued against the respondent The Crowell-Collier Publishing Company because:

(a) it has not been engaged in commerce as that term is defined in the Federal Trade Commission Act; and

(b) it did not control, dictate, or dominate the acts and practices of respondent P. F. Collier & Son Corporation during its existence, and the complaint should be dismissed as to such corporation.

2. A valid order to cease and desist herein cannot be issued against the respondent P. F. Collier & Son Corporation because it was dissolved and went out of existence in December 1960, and the complaint should be dismissed as to it.

3. There is no present, specific, or substantial public interest in further maintenance of this proceeding or the issuance of any order therein against either of the two respondents.

ORDER

It is therefore ordered, That the complaint against the respondent The Crowell-Collier Publishing Company be, and the same hereby is, dismissed.

It is further ordered, That the complaint against P. F. Collier & Son Corporation be, and the same hereby is, dismissed.

OPINION OF THE COMMISSION [1]

SEPTEMBER 30, 1966

This matter is before the Commission on the appeal of complaint counsel from the initial decision filed September 3, 1965, in which the examiner found and concluded that a "valid order to cease and desist" cannot be issued against either named respondent and so dismissed the whole complaint.

The complaint in this matter, issued on January 18, 1960, charged respondents with unfair methods of competition and unfair and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act (15 U.S.C. § 45). The charges in substance are that in connection with the sale of respondents' books, including Collier's Encyclopedia, at retail to the general public, respondents have made false, misleading and deceptive statements. More specifically, the complaint states that respondents, through their salesmen, represented that their salesmen were conducting a market research survey which in fact was not true; that their salesmen were connected with respondents' advertising or publicity department and were not selling anything, when in fact they were selling encyclopedias and other books, and were not so connected; that the encyclopedia set was to be given free or at a reduced price, providing the yearly supplements are purchased, which in fact was not true; that a set of Collier's Encyclopedia was to be given free or at a reduced price in return for a letter with comments and the right to use the person's name, which was false; that the offer of the encyclopedia was a "special introductory offer," which was false, and in fact the offer was available to the public generally; and that other benefits or advantages were available to the person contacted, when in truth and in fact such were not available.

The appeal of complaint counsel assigns as errors the exam-

[1] The correct title of this respondent, as shown by its answer, is The Crowell-Collier Publishing Company.

iner's holding that neither The Crowell-Collier Publishing Company (sometimes referred to hereafter as Crowell-Collier) nor P. F. Collier & Son Corporation is subject to an order to cease and desist, and such rulings as those assertedly restricting complaint counsel's examination of witnesses to show the relationship between the present subsidiary and the respondent, refusing to receive specified evidence into the record, striking of specified testimony, notably that taken in the Far West, and others.

Should an Order Issue Against P. F. Collier & Son Corporation?

During the course of the hearings, in the latter part of 1960, respondent P. F. Collier & Son Corporation, was voluntarily dissolved. On the basis of this dissolution respondents' counsel argued, and the hearing examiner held, that a valid order to cease and desist could not be issued against the dissolved corporation.

Commission orders are preventive in nature so that no useful purpose would be served in issuing an order if in fact the corporate entity no longer existed and the business activity in issue had ceased as a result of the dissolution. Complaint counsel argues, however, that the dissolution of P. F. Collier & Son Corporation was merely another legalistic maneuver in the long history of the parent corporation, respondent Crowell-Collier Publishing Company, of dissolving, establishing and reorganizing its subsidiaries at will, to evade liability for illegal activities, and that the business activities of the dissolved corporation, selling the same product from the same offices and with the same personnel are being continued by a successor corporation. The law is clear that in appropriate circumstances orders of administrative agencies may include successors and assigns. *Regal Knitwear Co.* v. *National Labor Relations Board,* 324 U.S. 9, 15 (1945); *National Labor Relations Board* v. *Deena Artware, Inc.,* 361 U.S. 398 (1960); *National Labor Relations Board* v. *Mastro Plastics Corporation,* 354 F. 2d 170 (2d Cir. 1965).

Accordingly, we do not accept respondent P. F. Collier & Son Corporation's arguments that it is beyond the Commission's jurisdiction. Respondent, who chose to raise the point only after the record had been closed—a record of abundant testimony and documentary evidence on both sides of the complaint—argues that its dissolution renders it a dead person beyond the reach of an order governing prospective conduct. As its counsel put it in argument on appeal, a corporate respondent can evade public scrutiny and judgment on a matter by simply announcing its dissolu-

tion prior to a final decision. We disagree. In any such instance such evasion is against the public interest.[2] In this particular instance, at least, the law prevents such a result.

It is well established that prosecutions abate upon the dissolution of a corporation unless saved by statute. *Melrose Distillers* v. *United States*, 359 U.S. 271, 273 (1959); *United States* v. *P. F. Collier & Son Corp.*, 208 F. 2d 936, 937 (7th Cir. 1953). Under the law of the state of its incorporation, respondent's existence has been continued for the purpose of litigating any proceedings commenced against it prior to its dissolution "until any judgments, orders or decrees therein shall be fully executed." Del. Code Ann. 1953, Tit. 8 § 278. This statute subjects corporations dissolved prior to suit or *pendente lite* not only to civil judgments but to criminal sanctions under the Sherman Act and Fair Labor Standards Act. *Melrose Distillers* v. *United States, supra; Addy* v. *Short*, 89 A. 2d 136 (Sup. Ct. Del. 1952). It also renders a dissolved corporation subject to an administrative cease and desist order. In *National Labor Relations Board* v. *Weirton Steel Co.*, the Board's complaint issued against respondent in 1937; respondent was voluntarily dissolved in 1939; and the Board issued its cease and desist order in 1941.[3] On appeal to the Third Circuit, respondent argued that its dissolution removed it from the Board's jurisdiction. The court, however, interpreted the above-referenced Delaware statute as preserving respondent Weirton's corporate entity for the purpose of subjecting it to a cease and desist order. 135 F. 2d at 498.[4]

Respondent's argument that issuance of a prospective order against a dissolved corporation constitutes a useless act has been rejected by the courts. *Cf. Walling* v. *Reuter Co.*, 321 U.S. 671 (1944); *McComb* v. *Row River Lumber Co.*, 177 F. 2d 129 (9th Cir. 1949); *General Electric Co.* v. *Masters Mail Order Co.*, 145 F. Supp. 57 (S.D.N.Y. 1956), *rev'd on other grounds*, 244 F. 2d 681 (2d Cir. 1957). Such an argument ignores the fact that a restraining order does not necessary bind only the corporate respondent. As stated by the Supreme Court:

> Not only is such an injunction enforcible by contempt proceedings against the corporation, its agents and officers and those individuals associated with

[2] See Marcus, *Suability of Dissolved Corporations—A Study in Intrastate and Federal-State Relationships*, 58 *Harv. L. Rev.* 675 (1945).

[3] 32 N.L.R.B. 1145.

[4] The applicability of the statute to proceedings before administrative agencies and equity proceedings is also noted in *United States* v. *Line Material Co.*, 202 F.2d 929, 932 (6th Cir. 1953).

it in the conduct of its business (citations omitted) but it may also, in appropriate circumstances, be enforced against those to whom the business may have been transferred, whether as a means of evading the judgment or for other reasons. The vitality of the judgment in such a case survives the dissolution of the corporate defendant (citations omitted). And these principles may be applied in fuller measure in furtherance of the public intersst, which here the petitioner represents, than if only private interests were involved. *Walling* v. *Reuter Co. supra,* at 674–75.

Our concern here is that it has been demonstrated that the respondent subsidiary abused the public. It has not made a showing that it abandoned its deceptive practices in good faith. Instead, the record shows that it voluntarily dissolved, and that, thereafter, a new corporation was formed with the same officers to sell the same product. These facts, when considered in the light of the respondent's lengthy and blatant use of deception, require issuance of an order to protect the public interest against respondent P. F. Collier & Son Corporation, whose existence has been prolonged by statute for this very purpose.

Accordingly, we conclude that respondent P. F. Collier & Son Corporation is not beyond Commission jurisdiction.

Liability of P. F. Collier, Inc., and Crowell-Collier Publishing Company

Immediately upon the dissolution of respondent P. F. Collier and Son Corporation, a new corporate entity was established called P. F. Collier, Inc. According to complaint counsel this new corporation is the *alter ego* of respondent P. F. Collier & Son Corporation, continuing the same business, selling the same product from the same offices with the same personnel. Thus, it is argued that *in fact* the successor to respondent P. F. Collier & Son Corporation is P. F. Collier, Inc., and that the latter corporation should be held responsible under any order issued herein.

Complaint counsel's theory in part for holding the P. F. Collier, Inc., liable is that the long history of corporate organizational changes of the parent, respondent Crowell-Collier Publishing Company, demonstrates that the subsidiaries (including P. F. Collier & Son Corporation and P. F. Collier, Inc.) are mere instrumentalities or puppets and that their acts, practices and activities are in fact dominated, controlled and directed by the parent corporation. The law is clear that where what is essentially an integrated business is conducted through a number of interrelated companies, it is necessary to consider the framework of the

whole enterprise in order to reach a decision. *Delaware Watch Company* v. *Federal Trade Commission,* 332 F. 2d 745 (2d Cir. 1964).

During the oral argument of this case on appeal before the full Commission, complaint counsel asked the Commission to take official notice of information published in certain issues of Moody's *Industrial Manual* and to take this information into consideration in our determination of the issue concerning liability of P. F. Collier, Inc., and the parent, Crowell-Collier Publishing Company, for the unlawful acts and practices of P. F. Collier & Son Corporation.

Complaint counsel also referred in his brief and in the course of oral argument on this appeal to various facts about the names, addresses and personnel of predecessor Crowell-Collier companies, the names of Crowell-Collier publications over the preceding years and various corporate dissolutions and establishment of successor Crowell-Collier companies. These facts were all based on pleadings and other formal papers contained in the public record of earlier Commission proceedings involving *P. F. Collier & Son Corporation,* Docket 3687, and *Crowell-Collier Publishing Company,* Docket 4372, and other findings in the case of *United States* v. *P. F. Collier & Son Corporation,* 208 F. 2d 936 (7 Cir. 1953). Many of these facts were also contained in the issues of Moody's *Industrial Manual* which counsel asked us to notice.

If the information cited from the above sources is accurate and was properly before the Commission in the form of probative evidence, we believe it would be relevant to the issue of the liability of P. F. Collier, Inc., and of the parent, Crowell-Collier Publishing Company. However, some doubt arises as to whether this information is properly before us. Moreover, P. F. Collier, Inc., not having been in existence at the time of the issuance of the complaint, and not having been organized until after the hearings were midway, has not participated in the hearings and has not offered any testimony on the issue of its status as a successor.

In order to resolve any doubt whether the information referred to previously is properly before the Commission in the form of probative evidence and to afford P. F. Collier, Inc., an opportunity to be heard on the single issue of whether it is *in fact* the successor to P. F. Collier & Son Corporation, we are remanding this case for the limited purposes (1) of ascertaining the truth of this information and obtaining it in probative form; (2) to allow complaint counsel to offer evidence in support of his claim that P. F.

Collier, Inc., is the successor corporation to respondent P. F. Collier & Son Corporation; and (3) to afford respondent Crowell-Collier Publishing Company and P. F. Collier, Inc., the opportunity to submit any evidence in rebuttal to that which may be submitted by complaint counsel. It should be explicitly understood that at this remand hearing the burden is on counsel supporting the complaint to submit in probative form evidence to which reference was made during the appeal and such other evidence as the hearing examiner may consider appropriate on the two limited issues of this remand respecting the control of the parent over the subsidiary and whether P. F. Collier, Inc., is the successor to P. F. Collier & Son Corporation.

Simultaneously, herewith, we are issuing a notice of this remand to P. F. Collier, Inc., as well as to the named respondents, in order to place each of these persons on notice of the hearing and to afford them the opportunity of participating.

At the conclusion of such hearing the record and the examiner's findings of fact on these limited issues shall be expeditiously certified to the Commission for final disposition. The hearing examiner who presided at the hearing on this matter died since the conclusion of the original proceeding. However, in view of the limited nature of this remand, concerned with factual issues of corporate relationships and having nothing to do with the substantive issue of whether the misrepresentations as alleged took place, we see no prejudice to either party to remand this matter to another hearing examiner.

Because of the interrelationship between the issue of liability of P. F. Collier, Inc., as the alleged *alter ego* of P. F. Collier & Son Corporation, and the issue of the responsibility of Crowell-Collier Publishing Company for the acts and practices of its subsidiaries, and our decision that this matter must be remanded to the hearing examiner, we are not making at this time any findings of fact or conclusions of law on the issue of the liability of the parent, Crowell-Collier Publishing Company, for the acts of its subsidiary.

Evidence of Misrepresentation

Leaving aside for the moment the question of the legal responsibility or accountability of either P. F. Collier & Son Corporation or The Crowell-Collier Publishing Company for the acts and practices covered by the complaint, it is clear that P. F. Collier & Son Corporation, through its salesmen and employees, engaged in

the deception and misrepresentation as charged and that the deceptive practices were employed in many parts of the country. The evidence as to such wrongful acts is set forth in detail, along with specific record references, in the Findings 10 through 26 of the attached findings of fact. Repetition will not be necessary except to indicate the general nature of the deceptive practices employed.

Respondent P. F. Collier & Son Corporation was, until the end of December 1960 and for a period prior thereto, engaged in the business of publishing, selling and distributing books, including an encyclopedia called Collier's Encyclopedia. It also sold and distributed related articles of merchandise such as bookcases. The books were printed in the State of Indiana and when sold were transported from that State to purchasers located in various other States of the United States and the District of Columbia. The fact that respondent P. F. Collier & Son Corporation was engaged in interstate commerce in the sale and distribution of such books and articles is not in question. Counsel for respondents conceded in oral argument that the dissolved corporation was in commerce (Oral argument p. 42).

Collier's Encyclopedia, which was first published around 1950–51, was then a completely new work. It had taken four to five years to produce. The reviewer in the *Saturday Review of Literature* for September 23, 1950, reported that "For the first time in more than thirty years an entirely new major adult encyclopedia would be available in 1950 . . . ." The Collier's Encyclopedia is described in one of respondent's advertisements as follows: "20 Big richly bound volumes and everything in them Completely Modern. Produced at a cost of over $2,000,000. Compiled by over 2,000 authorities. 15,000 pages containing 14,000,000 words . . . 400,000 index references . . . 50,000 interesting articles . . . 10,000 illustrations . . . 126 maps in full color . . . plus other exclusive features you will really go for." (CX 123–L.) In addition to the encyclopedia set, respondent P. F. Collier & Son Corporation distributed in a combination offer such other books as Harvard Classics, Junior Classics, a world atlas, dictionaries, an annual yearbook and other books and products.

Respondent P. F. Collier & Son Corporation sold the books and articles above referred to to the general public. It's method of selling was to employ representatives (referred to hereafter generally as salesmen) who would contact prospective purchasers in their homes or at their places of business. These salesmen were

furnished with sales kits, various books, pamphlets, circulars and other advertising matter and a sales talk or sales presentation. This talk, however, was frequently departed from in actual practice. Some of the district offices provided the salesmen with versions varying from the "official" sales talk. Also, district managers, in some instances, preferred to instruct the salesmen in their districts orally and they did not provide them with a written sales talk. This was the practice of Richard C. Davis, Chicago district sales manager. Harry Schanz, a former salesman of Collier's Encyclopedia in the Milwaukee, Wisconsin area, testified that he did not get a written sales presentation; rather, it was dictated to the new salesmen, who were told to write it down and memorize it.

The Collier's encyclopedia salesman, upon arriving at a home of a prospective purchaser, would use some sort of a so-called "door-opener" in order to gain entrance into the home. This, in many instances, took the form of a representation that a market survey of some sort was being conducted or that the call was somehow connected with an advertising campaign. The same approach was not used in all cases. Representations were sometimes made to the effect that encyclopedia sets were being given away free or at reduced cost because the person had been selected in the neighborhood for demonstration purposes and as a part of an advertising campaign. The salesman, upon gaining entry into the home, employed further representations, such as in many cases the claim that a set of Collier's Encyclopedia was being given free or at a reduced price if the supplements were purchased annually for $3.95 or the claim that the encyclopedia was being given free to the person called upon in return for a letter with comments on the set and permission to use the person's name in advertising. Also, claims often made included those that the offer was a special introductory offer, that the general promotion for the encyclopedia would be conducted at a later date, that the yearbook regularly sold for $10.00 and was offered specially to the prospect at $3.95, that certain books were given free of cost, and others. Whether or not some or most of the representations referred to were made in calls on prospects depended upon the individual salesman. Frequently, however, the salesman, following the recommended format, would make many such representations, as listed.

These representations were false, misleading and deceptive. Collier's salesmen, on the occasions referred to in the findings,

were not conducting market surveys nor were they connected with an advertising campaign or program. They were not giving to the prospects or the purchasers the sets at reduced prices or free of cost providing they bought the yearbooks annually or supplied letters and the use of their signatures or free of cost or at a reduced price under any other arrangement. Moreover, they were not making a special introductory offer, giving a special price on the yearbook at $3.95, giving away books free of cost, or otherwise performing as represented in the instances mentioned in Finding 11.

In fact, respondents' salesmen in such instances were selling sets of encyclopedias and other books and articles and the prices charged therefor were the regular and usual prices. All of these claims and representations referred to were part of a plan to, if possible, mislead the prospective purchaser into the belief that the call was not a sales call and that the prospect would be getting something for nothing or some benefit not actually available.

Perhaps the following quotation from the testimony of Donald Druckenmiller, an Arlington County, Virginia, school teacher, reflects, as well as any other, the nature and the effect of the deception practiced:

> . . . I am a grown man and I bought these encyclopedias, I bought them, but later on, I was a little discouraged, I was a little mad at myself for buying them and I was much madder with the misrepresentation that these people used to get in. I did not get these books for nothing, I paid for them, I paid for them, and I knew this, but still, I wasn't too happy with the way these people went about getting in. And it was with that idea that they were going to give me free of charge a set of encyclopedias, because I was a professional person, and they were going to place these in my home.

In instance after instance consumer witnesses graphically describe the false claims and the deceitful manner in which the salesmen approached them. A few examples follow:

> . . . We are making a market survey and we are only choosing a certain group of people . . . . (Hollar, Tr. 12.)

> . . . He said that every year Colliers was allowed so much money for advertising . . . This year they had decided they would put the books into the homes of certain people and would have them used and he said within 90 days after they received these books, they are required to write a letter of recommendation for these books and an authorization to use the letter to sell books to other people. (Garoutte, Tr. 44–45.)

> . . . His conversation with me started out with a sales pitch that "For a set of Collier's Encyclopedias which would be given to me free." I was to in turn give them after 15 days, looking it over and approving of it, a letter

with my signature attached which they told me would be used in an advertising or sales promotional program . . . . (Nicholls, Tr. 67.)

Well, after he had entered and we had sat down and talked, he asked if I would go ahead and sign this slip of paper, stating that it would be okay for Colliers to use my name in the publications or in advertising purposes. Then he said that for a small additional fee of ten dollars a year for a yearbook, we would receive, for the privilege of using my name, the encyclopedias, and for a small fee of ten dollars, we could obtain the yearbook every year . . . . (Kargoll, Tr. 177.)

He said he wasn't going to sell me an encyclopedia. He was going to give me a set of encyclopedia, which I was a little skeptical of. I didn't quite believe him. He said that we were the only people chosen in our vicinity to get this opportunity; that it was a new set of books that were coming out and before anyone else in the neighborhood or the vicinity would get these books, they wanted one couple to use them in each vicinity for publicity; that they wanted us to use the books and tell them how we liked them and write a letter telling how we liked the books, and he wanted to speak to my husband. I brought him up into the house then. (Michielini, Tr. 194–195.)

The above statements are typical of those given by consumer witnesses who testified in this proceeding. Even the witnesses produced by respondents in their defense in many cases testified to substantially the same effect.

The respondents argued before the hearing examiner that many of complaint counsel's witnesses bore personal grudges or had general dislikes for Colliers. It was claimed that these witnesses came forward to exhibit their personal bias only because of alleged inflammatory publicity given to the issuance of the complaint by the Commission and, further, that many of the Commission's consumer witnesses contacted the Commission for the purpose of canceling their contract to purchase books and to obtain refunds of the money paid.

There is, as the findings indicate, more evidence in this case than the testimony of the consumer witnesses. The proof includes the copies of the sales presentations supplied to salesmen and salesmen's testimony which establish that the representations made followed a general policy. The testimony of the consumer witnesses, therefore, does not stand alone, but it is a verification of the actual use of the false representations otherwise shown. Moreover, the record shows a wide geographical distribution of the use of the false representations challenged herein. The witnesses came from such diverse areas as Washington, D.C., New York, New York, Pittsburgh, Pennsylvania, Detroit and Flint, Michigan, Springfield, Ohio and Chicago, Illinois, as well as other areas of the country. Such general use of similar sales presenta-

tions establishes that a pattern is involved. Furthermore, the general use, along with other evidence of record, shows that the salesmen were following policies of the corporate seller.

We do not agree, however, with respondents' claim that the consumer witness testimony was generally biased. The caliber of the witnesses as a whole, and the nature of the professions of some, such as teaching and the ministry, suggest that their testimony can be given a high degree of credibility. In addition, witnesses called by respondents testified to the same general effect as those called by complaint counsel. Some illustrative testimony from respondents' witnesses will be referred to below.

Allen McDuffy testified that the books he bought were good books, that he did not think he had overpaid for them (consequently, it can be concluded that he was not disgruntled), but he further testified as to the representation of the Collier's salesman in part as follows: "He said I'm not selling anything. I just want to come in and you end up with some books, and it wouldn't cost me [sic] anything." (Tr. 2682.) The interesting thing here is that the witness, at the time of the hearing and possibly to this day, believes that he got those books without cost even though he paid $200. At page 2,684 of the transcript he testified as follows in part: "I think it was all right. I would say that he was—I was going to get some books and it wasn't going to cost me anything, and I think it ended up that way."

Claudia Schultz, respondents' witness, testified as follows in part:

Q. When he was there did you ask him any questions such as how much is this going to cost?

A. Yes, we kept asking him and he kept saying we're putting them in your home. There is no charge for an encyclopedia, which was true, I suppose, no charge for it, except the books, the set of books, but we were—in order to get them, we had to sign for others. (Tr. 2718.)

Another witness called by respondents was Reverend Melvin Voss, who testified on cross-examination in part:

Q. What did he say about the people he was calling on?

A. I believe he said that he was making contact with leaders or people in positions that would be interested in this thing as a first call in the community. I believe he said something to this effect, that there would be, oh, a minister, school teacher, or someone like that that he wanted to make contact with first of all, that they would know or could be used as reference so he made the first contacts there.

Q. Did he say whether or not the set was being sold to the community at that time?

A. I think he was going to contact various individuals first and then come

through later on and make more of a general community appeal . . . .

Q. Now, what did he state to you was his plan? . . .

A. He said he would make contact with the leaders in the community first, and then they would come through on a general sales compaign after this.

Q. Were you to get a special price reduction or anything?

A. There is nothing stated as far as this. I don't know, he said, I believe, that this $265 was, I don't know whether this was a reduced price or not, I don't remember, but he said on the open market they would sell at a higher figure. (Tr. 2737, 2738.)

And so on and so on for a number of witnesses. The quotations above are fairly representative. The statements of these witnesses do not show any particular bias or ill-feeling toward Collier's; yet, their testimony clearly supports the allegations of the complaint as to the representations made.

A corporation which sends out salesmen to promote its product from door to door is unquestionably responsible for the representations they make. *International Art Co.* v. *Federal Trade Commission,* 109 F. 2d 393, 396 (7th Cir. 1940); *Perma-Maid Co.* v. *Federal Trade Commission,* 121 F. 2d 282, 284 (6th Cir. 1941); *Parke, Austin & Lipscomb, Inc.* v. *Federal Trade Commission,* 142 F. 2d 437, 440 (2d Cir. 1944); *Consumers Home Equipment Co.* v. *Federal Trade Commission,* 164 F. 2d 972, 973 (6th Cir. 1947). In the *International Art Co.* case, *supra,* the court rejected the argument that the company had no power to control its agents, stating:

. . . Here, the agent was clothed with apparent, and, we think, real authority to speak and act for and on behalf of the principal, and the latter is bound thereby. We know of no theory of law by which the company could hold out to the public these salesmen as its representatives, reap the fruits from their acts and doings without incurring such liabilities as attach thereto. (*Id.* at 396.)

The Supreme Court, in *Federal Trade Commission* v. *Standard Education Society,* 302 U.S. 112, 116–117 (1937), in condemning a very similar encyclopedia selling plan, observed, in words highly appropriate here:

The practice of promising free books where no free books were intended to be given, and the practice of deceiving unwary purchasers into the false belief that loose-leaf supplements alone sell for $69.50, when in reality both books and supplement regularly sell for $69.50, are practices contrary to decent business standards. To fail to prohibit such evil practices would be to elevate deception in business and to give to it the standing and dignity of truth. It was clearly the practice of respondents through their agents, in accordance with a well-matured plan, to mislead customers into the belief that they were given an encyclopedia, and that they paid only for the loose leaf

supplement. That representations were made justifying this belief; that the plan was outlined in letters going directly from the companies; that men and women were deceived by them—there can be little doubt. Certainly the Commission was justified from the evidence in finding that customers were misled. Testimony in the record from citizens of ten States—teachers, doctors, college professors, club women, business men—proves beyond doubt that the practice was not only the commonly accepted sales method for respondents' encyclopedias, but that it successfully deceived and deluded its victims.

CONCLUSION

In view of our determination to remand this matter to the hearing examiner for further proceedings, it is unnecessary to consider at this time complaint counsel's other assertions of error. The initial decision is vacated and our findings as to the facts, conclusions and order to cease and desist with respect to respondent P. F. Collier & Son Corporation are issuing in lieu thereof to the extent indicated in this opinion.

Determination as to the responsibility of the parent, respondent Crowell-Collier Publishing Company, and the applicability of the order to cease and desist to P. F. Collier, Inc., and findings as to the facts and conclusions in respect thereto are reserved until the hearing examiner certifies the record and his findings in accordance with the remand order that is issuing [p. 1770 herein].

The order to cease and desist issuing against respondent P. F. Collier & Son Corporation shall not become effective until further order of the Commission.

FINDINGS AS TO THE FACTS, CONCLUSIONS AND ORDER [1]

The Federal Trade Commission issued its complaint in this matter on January 18, 1960, charging respondents with unfair methods of competition and unfair and deceptive acts and practices in commerce in violation of the Federal Trade Commission Act.[2] The charges, in substance, are that in connection with the solicitation for sale and the sale of respondents' books, including the Collier's Encyclopedia, at retail to the general public, respondents have made false, misleading and deceptive statements concerning the status of their agents who make the representations and concerning the offer, the quality, composition, characteristics, and price of such books. Hearings were held before a hearing examiner of the Commission, and testimony and other evidence in

[1] The correct title of this respondent, as shown by its answer, is The Crowell-Collier Publishing Company.

[2] The allegations pertain to Section 5 of the Act (15 U.S.C. § 45).

support of, and in opposition to, the allegations of the complaint were received into the record. In an initial decision filed September 3, 1965, the examiner found and concluded that a valid order to cease and desist could not be issued against either of the named corporations and he therefore ordered the complaint dismissed as to both respondents.

The Commission, having considered the appeal from counsel supporting the complaint and the entire record, and having determined that the initial decision should be vacated and set aside to the extent set forth in the accompanying opinion, now makes this, its findings as to the facts, conclusions drawn therefrom and order, the same to be in lieu of those contained in the initial decision.[3]

FINDINGS AS TO THE FACTS

1. Respondent The Crowell-Collier Publishing Company (sometimes referred to herein as Crowell-Collier) is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Delaware and it has its office and principal place of business at 640 Fifth Avenue, New York, New York. Respondent P. F. Collier & Son Corporation was, at the time of the issuance of the complaint, a corporation, organized, existing and doing business under, and by virtue of, the laws of the State of Delaware. It had its office and principal place of business located at 640 Fifth Avenue, New York, New York. Respondent P. F. Collier & Son Corporation was a wholly owned subsidiary of The Crowell-Collier Publishing Company. (Respective answers of respondents to the complaint.)

2. Respondent P. F. Collier & Son Corporation was, at the time of the complaint and had been for several years prior thereto, engaged in the business of publishing, selling and distribution of books, including an encyclopedia called Collier's Encyclopedia. It sold such books at retail to the general public. The sales were made through solicitors who contacted prospective purchasers in their homes or at their places of business. Such respondent furnished to solicitors sales kits, various books, pamphlets, circulars, and other advertising, sales and promotional material including order blanks, instructions and sales talks. The solicitors exhibited

[3] The Commission having determined that this matter be remanded to the hearing examiner for the purposes set forth in the accompanying opinion, no findings or conclusions are made herein respecting the responsibility of respondent Crowell-Collier Publishing Company, or the applicability of the order to P. F. Collier, Inc.

some of such material to prospective purchasers and they made oral presentations to prospective purchasers. (Answer to the complaint filed by P. F. Collier & Son Corporation.) It also sold articles like bookcases. (CX 5.)

3. Respondent P. F. Collier & Son Corporation went out of existence at the end of December 1960. However, the business of respondent P. F. Collier & Son Corporation is being carried on by a successor corporation (Tr. 1547–1551.)

4. The Crowell-Collier Publishing Company is a parent organization and it wholly owns certain operating subsidiaries. At the time of the hearings it wholly owned three subsidiaries operating in the United States. Two of these were radio broadcasting corporations and the third was P. F. Collier & Son Corporation. Another wholly owned operating subsidiary was P. F. Collier & Son, Ltd., a Canadian corporation which operated in Canada similarly to the way P. F. Collier & Son Corporation operated in the United States. (Tr. 99.) In addition to owning subsidiaries, the nature of the business of Crowell-Collier is that of leasing and subletting space in the Crowell-Collier Building at 51st Street and Fifth Avenue, New York. (Tr. 97.) Crowell-Collier did not engage in the publishing and distribution of books, including encyclopedias, in the years immediately prior to the issuance of the complaint, except as these activities were engaged in through the operating subsidiaries. (Tr. 97.) The encyclopedia sets sold and distributed by the P. F. Collier & Son Corporation were not published at, nor were they shipped out of, the address at 640 Fifth Avenue, New York, the home offices of the corporations. (Tr. 118.) The encyclopedias were printed by the Rand-McNally Company in Hammond, Indiana, and shipped from the location of the printer to the purchasers in the various States. (Tr. 155, 117.)

5. The volume of business of Crowell-Collier and subsidiaries was, at the time of the hearing, as follows: P. F. Collier & Son Corporation and P. F. Collier & Son, Ltd., the reference book subsidiaries, approximately $32,000,000; the radio station corporations about $3,000,000; and the business of the parent company was the rents of fourteen stories in the Crowell-Collier Building. (Tr. 113).

6. The sale of encyclopedias was the major product and business of P. F. Collier & Son Corporation. (Tr. 104.) The business of the two reference book subsidiaries distributing encyclopedias (that is, the American and the Canadian corporations) at the

time of the hearing amounted to approximately $32,000,000.

7. The prestige and good standing of the name "Collier" was widely used by P. F. Collier & Son Corporation in its sale and distribution of Collier's encyclopedias. (CXs 10, 38–A and 113–C.) Many consumer witnesses testified that the salesmen, in approaching them, used a reference to Collier's magazine to establish an association. As an example, Mrs. Robert Garoutte testified in part:

> Then he asked us if Collier meant anything to us and my husband said, "Yes, magazines". I said, "Encyclopedias". (Tr. 44.)

Another instance of this is in the testimony of Robert W. Harper, who stated in part:

> I remember he asked me if I had ever heard of Collier's Magazine; and I told him I had; and he wanted to know what I thought of it. (Tr. 650.)
>
> * * * * * * *
>
> Well, I think that was just nothing but a pitch to let you know that it was a reputable outfit that he was representing because he wanted to know if I had heard of Collier's Magazine. I think that was to make you believe that it was a reputable outfit that he was working for. (Tr. 651.)

The name "Collier's Encyclopedia" appears on the books in the set. (See Display Folder CX 2.) On the Junior Classics the identification is "Collier." (CX 4.) The year books are identified as "Collier's Encyclopedia Year Book," with the additional designation "P. F. Collier." (CX 3.)

8. Respondent P. F. Collier & Son Corporation was, until the end of December 1960 and for several years prior thereto, engaged in the business of publishing, selling and distributing books, including an encyclopedia called Collier's Encyclopedia. (Answer, P. F. Collier & Son Corporation, para. 2.) Respondent P. F. Collier & Son Corporation caused its said books, including Collier's Encyclopedia, when sold to be transported from the State of Indiana to purchasers thereof located in various other States of the United States and the District of Columbia. (Tr. 117–118, 155.) The sales are handled through sales offices located in various cities in the United States. (Tr. 118–119.) Respondent P. F. Collier & Son Corporation maintains, and at all times mentioned in the complaint has maintained, a substantial course of trade in its books in commerce, as "commerce" is defined in the Federal Trade Commission Act. (Tr. 117–119, 1553–1556, and voluminous evidence in the record of solicitations and sales of respondent's encyclopedias broadly over the United States, including cities such as Washington, D.C., New York, New York, Pittsburgh, Pennsylvania, Detroit and Flint, Michigan, Springfield, Ohio, Chicago, Il-

linois and others.) Respondent P. F. Collier & Son Corporation also distributed and sold in commerce in the "combination offer" or otherwise articles other than books, such as bookcases. (CX 5, CXs 10, 33, 140, 141, 151; Tr. 936.)

9. In the course and conduct of its business, respondent P. F. Collier & Son Corporation was, in the period covered by the complaint, in direct and substantial competition in commerce with other corporations, individuals and firms in the sale of books of the same general nature as those sold by respondent. (Steps 2 and 3, CX 129–A, CX 111–C, CX 10; Schanz, Tr. 932–933.)

10. Respondent P. F. Collier & Son Corporation sold its books, including Collier's Encyclopedia, at retail to the general public. Sales were made by agents, representatives or employees (referred to hereafter generally as salesmen) who contacted prospective purchasers in their homes or their places of business. Respondent P. F. Collier & Son Corporation furnished its salesmen with sales kits, various books, pamphlets, circulars, and other advertising, sales and promotional literature. In their solicitation and sales presentation, respondent P. F. Collier & Son Corporation's salesmen made many statements and representations concerning their own employment status and concerning the nature of, and the conditions attached to, the offer of its books, including Collier's Encyclopedia, and other articles. Some of these statements and representations were orally made by respondent P. F. Collier & Son Corporation's salesmen to the prospective purchasers or purchasers and some were contained in advertising and promotional literature displayed by the salesmen to the prospects or the purchasers. (Answer, para. 4, P. F. Collier & Son Corporation; CXs 1–4, 9 and 10, 38 A–F, 113 A–I, 128 A and B, 129 A–D; the testimony of salesmen and other officials and employees of P. F. Collier & Son Corporation, *e.g.*, Terry Donahue, former salesman, Tr. 211, *et seq.;* Richard C. Davis, Chicago district sales manager, Tr. 880, *et seq.;* Harry J. Schanz, former salesman, Tr. 921, *et seq.;* Kenneth Dunn, regional manager, Tr. 946, *et seq.* and others.)

11. In the course and conduct of its offering for sale, sale and distribution of its books, including its Collier encyclopedias, respondent P. F. Collier & Son Corporation through salesmen or representatives, or directly in promotional literature displayed to purchasers or prospective purchasers, made the following statements and representations, express or implied:

(a) That respondent P. F. Collier & Son Corporation was con-

ducting a market research survey, a brand identification program or survey, or some other kind of survey. Evidence supporting this finding includes: sales presentations used by respondent P. F. Collier & Son Corporation's salesmen, *e.g.*, CXs 10–B, 38 A–F, 129 A–D, 128 A–B, 182; the testimony of salesmen Schanz, Tr. 929, Donahue, Tr. 242; the testimony of prospects or purchasers, *e.g.*, Hollar, Tr. 12, Garoutte, Tr. 44, Fields, Tr. 536, White, Tr. 778, 1942–1943, Boris, Tr. 817, Drobny, Tr. 982, Kurkechian, Tr. 2851, Drobny, Tr. 2688.

(b) That respondent P. F. Collier & Son Corporation's representative or salesman calling on the prospect is connected with respondent P. F. Collier & Son Corporation's advertising or publicity department and is not selling anything. Evidence in support of this includes: sales presentations, CXs 38 A–F and 113 A–I; testimony of salesmen Close, Tr. 3022–3023, 3032, Schanz, Tr. 930; and the testimony of consumer or prospective purchaser witnesses as follows: Chambers, Tr. 2813, Kargoll, Tr. 177, Dorrian, Tr. 288, Nicholls, Tr. 67, Herman, Tr. 311, 316, Bortoluzzi, Tr. 368, Harper, Tr. 670.

(c) That respondent P. F. Collier & Son Corporation is offering to give a set of Collier's Encyclopedia free or at a reduced price providing the yearly supplements included in a combination offer are purchased. Evidence supporting this includes: the testimony of salesmen, *e.g.*, Donahue, Tr. 1652; testimony of consumers Thorsen, Tr. 2705–2706, Schultz, Tr. 2718, Chambers, Tr. 2817, Kargoll, Tr. 179, Garoutte, Tr. 57, Nicholls, Tr. 67–68, Herman, Tr. 312, Dunn, Tr. 326, Bortoluzzi, Tr. 379, 391, Bruce, Tr. 423, Kurkechian, Tr. 484, Fields, Tr. 512–513, Dickerson, Tr. 676–677, Boris, Tr. 819, Nelson, Tr. 972–973; and sales presentation material, including CXs 9–10, 38 A–F, CX 113 A–I, CX 128 A–B.

(d) That the cost of the set of Collier's Encyclopedia is included in and covered by respondent P. F. Collier & Son Corporation's advertising budget and is being given free, or at a reduced price, to the person called upon in return for:

(1) A letter giving his or her opinion and comments about the set of encyclopedia after it is received, and

(2) Permission in writing to use the person's name in advertising respondent's encyclopedias.

This is supported by testimony of purchaser or prospective purchaser witnesses, including the following: Michielini, Tr. 194, Dorrian, Tr. 288, Garoutte, Tr. 44–45, Nicholls, Tr. 67, Herman,

Tr. 311–314, Freeburg, Tr. 345–346, Stefanko, Tr. 355, Bortoluzzi, Tr. 368, Wilson, Tr. 395, Bruce, Tr. 422, Denin, Tr. 462–464, Kurkechian, Tr. 482, Fields, Tr. 536, Bretz, Tr. 548, Badertscher, Tr. 564, Van Berkel, Tr. 584–585, Carpenter, Tr. 612, 621, Harper, Tr. 651, Chambers, Tr. 698, White, Tr. 723, 724, Urquhart, Tr. 762, White, Tr. 778, Kouba, Tr. 790–791, Reilly, Tr. 838, 839, Remley, Tr. 848, Thorsen, Tr. 2704–2705, Schultz, Tr. 2716, Voss, Tr. 2738–2740, Chambers, Tr. 2823–2824, Harper, Tr. 2880, Van Berkel, Tr. 2924, St. Pierre, Tr. 2950, and Stefanko, Tr. 2995; and sales presentation materials, including CX 9, CX 38 A–B, CX 128 A–B.

(e) That the offer of respondent P. F. Collier & Son Corporation's encyclopedia is a special introductory offer, is not being offered to the public generally at the particular time and is being offered to a specially selected group of people in the community at that time. Testimony of consumer witnesses, including Kouba, Tr. 807, 808, Michielini, Tr. 194, Urquhart, Tr. 1912, DeVinney, Tr. 272–273, Dorrian, Tr. 287–288, Bruce, Tr. 498–499, Dauer, Tr. 265, Remley, Tr. 848, and Reverend Voss, Tr. 2737; sales presentations such as CXs 113–B and 38–A.

(f) That respondent P. F. Collier & Son Corporation's general sales promotion and offer of the encyclopedia will be conducted at a later date. Testimony of consumer witnesses, including Michielini, Tr. 194, Dauer, Tr. 265, Bruce, Tr. 497, Dorrian, Tr. 288; and sales presentation, CX 113–B.

(g) That the annual supplement, volume or year book usually and regularly sells for $10.00 and is being specially offered to the prospective customer for only $3.95. Michielini, Tr. 198, Dorrian, Tr. 291, Herman, Tr. 313, Freeberg, Tr. 348, Stefanko, Tr. 360, Davis, Tr. 909, Hollar, Tr. 28, Bruce, Tr. 498, White, Tr. 782, Reilly, Tr. 839, and Remley, Tr. 849. See also order forms such as CX 1. This states in part as to the year book: "list price $10.00 when sold separately . . . only $3.95."

(h) That certain books included in respondent P. F. Collier & Son Corporation's combination offer are given free of cost with the purchase of respondent P. F. Collier & Son Corporation's encyclopedia and the supplements or year books. Michielini, Tr. 200, Hollar, Tr. 28, Garoutte, Tr. 58, Herman, Tr. 313, Dunn, Tr. 326, Druckenmiller, Tr. 89, Kargoll, Tr. 178, Remley, Tr. 850; CX 9, p. 10–I, CX 38–C, CX 128–B.

(i) That the encyclopedia set being offered to the prospective customer is nationally advertised for $389 or more. This is sup-

ported by testimony from consumer witnesses, including Dorrian, Tr. 288, Hollar, Tr. 28, Reilly, Tr. 839, and others; and documents CXs 109, 113–G, 114, 128–B, and others.

(j) That the special offer as to conditions and price is limited to the time of the call on the prospective customer. Michielini, Tr. 196, Goliger, Tr. 3272.

(k) That respondent P. F. Collier & Son Corporation has a plan to accept deferred payment orders on an encyclopedia set or the combination offer, covering a ten-year period, thereby spreading the cost over a long period of time and reducing the monthly payments. Included in the evidence in support of this is respondent P. F. Collier & Son Corporation's approved sales presentation, CX 9, p. 10–I; testimony of salesmen, *e.g.*, Schanz, Tr. 934–935; sales presentations, CXs 128–B, 113–H, 38 A–C; and the testimony of consumer witnesses Boris, Tr. 821, Herman, Tr. 313–316, Harper, Tr. 2876, Beardsworth, Tr. 3286, and others.

12. The representations set forth in Finding 11, above, made by salesmen or representatives to prospective purchasers were made pursuant to respondent P. F. Collier & Son Corporation's overall policies and selling methods. There is a pattern covering many persons and many sales territories, showing that the representations were no mere independent or individual remarks of a particular salesman. The stage is set by the official sales presentation. This is contained in Commission Exhibit 9, which is the sales standard of practice for Collier's. (Tr. 147.) Therein, pages 11–A through 11–I, is the respondent P. F. Collier & Son Corporation's authorized sales presentation to be given to prospective customers. It is called a Collier's Encyclopedia Brand Identification Program. While not expressly setting out each and every one of the representations referred to in Finding 11, above, this authorized sales talk nonetheless lays the groundwork for them by particular statements and by the overall effect of the presentation. There is, for instance, emphasis on the idea that this is an advertising scheme rather than a selling program. As another example, there is the idea or suggestion therein that because of the advertising aspects the purchaser will receive substantial reductions in price or will receive some goods at no cost. Also, the basic idea of writing a letter as part of the advertising or brand identification program is contained in this document.

13. Some of the sales presentations in actual use are much more explicit. (See CX 38A–F, used by salesman Donahue, CX 128 A–B, used by salesman Turco, and CX 113 A–I, used by sales-

man Stone.) These expressly contain claims or representations challenged herein.

14. A number of respondent P. F. Collier & Son Corporation's salesmen or former salesmen testified. Although their so-called "door-openers" and general presentations may have differed somewhat, their testimony makes plain that they made respresentations like those set out in Finding 11, above. (See the testimony of Schanz, former salesman, Tr. 929–937, Donahue, Tr. 242–245, Close, Tr. 3027–3033.)

15. Printed sales talks were not always available for new salesmen. Richard C. Davis, district sales manager, testified that he did not use a printed sales talk but taught his men right in the class on an oral basis. (Tr. 886.) Harry Schanz, former salesman, testified that the sales spiel he was to use and did use was dictated by the instructor to the new men. (Tr. 926.)

16. Respondent P. F. Collier & Son Corporation's witness, district sales manager of the Washington branch, Pavlovich, admitted that the salesmen are all door-to-door sales people (Tr. 3498) and that many of them, the sales people, used different statements as door-openers. (Tr. 3494.) Carl Edwards, former district manager for Collier's, testified that the company authorized a talk which the salesman uses "and then you pick up as you go along." (Tr. 2894.) He said that he taught men the door-opener verbally "because you have to have the emphasis behind it." (Tr. 2897.) Salesmen were given sales presentations by respondent P. F. Collier & Son Corporation's division personnel, containing the express representations, or some of them, as set forth in Finding 11, above. (See, for example, CX 38 A–F, CX 128 A–B, CX 129 A–D and CX 113 A–I.)

17. Respondent P. F. Collier & Son Corporation knew or should have known of the representations made by its salesmen. It had a regular policy of verifying the order by contacting the customer by phone the day after the sale. Contacts were made by branch managers. (King, Tr. 2746–2752, Holmes, Tr. 2832–2833.)

18. The representations set forth in Finding 11, above, were made by respondent P. F. Collier & Son Corporation's salesmen over a wide geographic area, including a large number of states and different sales territories. Hearings were held in such diverse localities as Washington, D. C., New York, New York, Pittsburgh, Pennsylvania, Detroit, Michigan, and Springfield, Ohio. The witnesses who testified came from those communities, as well as from other areas. Witnesses who testified had lived, in some in-

stances, at the time of the contact by respondent P. F. Collier & Son Corporation's representatives, in areas remote from those in which they testified. (*E.g.*, Dunn, Tr. 325.)

19. The representations as set forth in subparagraphs (a), (b), and (c) of Finding 11 are false, misleading and deceptive. In truth and in fact, (a) respondent P. F. Collier & Son Corporation was not conducting a market research survey, a brand identification program or survey, or any other kind of survey; (b) respondent P. F. Collier & Son Corporation's representatives or salesmen were engaged in selling encyclopedias and other books to the prospect called upon and they were not connected with respondent P. F. Collier & Son Corporation's advertising or publicity department; (c) respondent P. F. Collier & Son Corporation did not give the set of Collier's Encyclopedia free or at a reduced price to the person called upon if the yearly supplements were purchased or for any other reason. Respondent P. F. Collier & Son Corporation's salesmen, in representing that a survey was being conducted and that they were connected with the advertising or publicity of the Collier's organization or that they were giving away the encyclopedia set at a free or reduced price, were using a so-called "door-opener" or attention and interest getter. Former salesman witness Schanz testified that he was employed to sell encyclopedias by door-to-door selling and that as part of his door-opener or preliminary approach he would tell the prospect that he was taking a survey. (Tr. 929.) Other salesmen or former salesmen testified to similar effect, that is, that in approaching prospects in door-to-door selling they would attempt to obtain the interest of the prospect by references to a survey or by implying that the call was connected with an advertising or publicity campaign. (Close, Tr. 3021–3022, Donahue, Tr. 242–243.) It is clear from testimony that salesmen used these representations only as a sales pitch. The form of the sales presentations and the testimony of the various representatives of the respondent P. F. Collier & Son Corporation demonstrate that respondent P. F. Collier & Son Corporation was not conducting a survey and that the representatives in the instances referred to were not connected with respondent P. F. Collier & Son Corporation's advertising or publicity department. The supervisory personnel who testified confirmed that the salesmen and representatives which they instructed were not engaged in surveys or in conducting an advertising program but were in fact selling encyclopedias. (Testimony

of Richard C. Davis, Tr. 880, *et seq.*, Kenneth Dunn, Tr. 946, *et seq.*, and Carl Edwards, Tr. 2887, *et seq.*)

The representation that the encyclopedia set was being given away free or at a reduced price, provided that the prospect purchase the year books, was part of, or connected with, the door-opener and the salesman's claim of an association with advertising or publicity. Respondent P. F. Collier & Son Corporation in these instances was not giving the set away or selling it at a reduced price, provided the prospect purchased the year book, or for any other reason. The price quoted was respondent P. F. Collier & Son Corporation's regular and usual price for its combination offer of the encyclopedia set and other items. (Tr. 1569–1570; CXs 13, 14 and 15.)

The testimony of consumer witnesses also shows that in the contacts made on them by respondent P. F. Collier & Son Corporation's salesmen, respondent P. F. Collier & Son Corporation was not in fact conducting a survey, engaged in an advertising or publicity program or in giving away Collier's Encyclopedia free or at a reduced price in return for the purchase of yearly supplements. This testimony and supporting purchase records show that respondent P. F. Collier & Son Corporation in these situations was in fact selling encyclopedias and other books. (For example, the testimony of Mrs. Robert Garoutte, Tr. 44–46, and record of purchase of Collier's Encyclopedia, CX 5; and the testimony of Donald Druckenmiller, Tr. 83–84, 89, and record of purchase, CX 8.)

20. The representation set forth in subparagraph (d) of Finding 11, above, is false, misleading and deceptive. In truth and in fact, a set of Collier's Encyclopedia was not given free or at a reduced price to the person called upon in return for a letter from such person with his or her opinion and comments and upon receipt of permission to use such person's name in advertising. The evidence generally referred to in Finding 19, above, to the effect that respondent P. F. Collier & Son Corporation was engaged in selling encyclopedias and was not giving them away at a free or reduced price shows that respondent likewise was not giving away encyclopedias free or at a reduced price in return for a letter of recommendation and the use of a purchaser's signature. Additionally, the sales records show that such purchasers paid respondent the full price for the encyclopedia set, individually or in the combination offer. Prices paid by some of the witnesses who testified are as follows:

Name	Amount	Date	Commission Exhibit No.
Kouba	$199.50	Oct. 1955	97
Remley	199.50	Nov. 1956	106
Druckenmiller	199.50	Aug. 1958	8
Wilson	249.50	Sept. 1958	55
Stefanko	269.50	March 1959	46
Hollar	299.50	June 1959	1
Garoutte	269.50	April 1959	5
DeVinney	279.50	June 1959	41
Dorrian	269.50	March 1959	42
Bruce	279.50	Oct. 1959	58
Kurkechian	279.50	Sept. 1959	64
Badertscher	279.50	Oct. 1959	66
Van Berkel	279.50	July 1959	73
Bretz	279.50	Oct. 1959	78
Carpenter	279.50	June 1959	82
Chambers	279.50	Dec. 1959	91
White	279.50	Sept. 1959	94
Dauer	256.69	Aug. 1960	39

These prices are consistent with the evidence as to respondent P. F. Collier & Son Corporation's regular prices for encyclopedia sets individually or for the combination offer. (See the price lists identified CXs 13–15.) Additionally, respondent P. F. Collier & Son Corporation's official, John Boe, testified as to the general prices for respondent P. F. Collier & Son Corporation's encyclopedia set and the years in which changes were made. (Tr. 1559–1560, 1569–1571.) The price of the basic set in 1951 was $149. (Tr. 1559.) The price was raised in 1952 to $189; in 1954 to $199. (Tr. 1569.) "But the 1959 increase was over two hundred dollars, basically to $229, and we started selling combinations of $239, $249, $259, and so forth." (Tr. 1570.) Respondent P. F. Collier & Son Corporation's district sales manager Davis testified in December 1960 in part as follows:

> 95 to 99 percent of the orders that are turned in by the people working for me at the present time is a combination offer price totaling $289.50. (Tr. 907.)

Prices varied not only in the different time period but depending upon the kinds of books and other articles purchased, either in combination or otherwise.

Many of the consumer witnesses testified that although they were asked at the time of the salesman's call to write letters of recommendation or opinion they were never requested to supply such letters. (Tr. 317, 369, 492–493 and other references.) The representation in these cases was not made because respondent P. F. Collier & Son Corporation wanted such letters, but as part of the method used to make a sale of a set of Collier's Encyclopedia,

i.e., to suggest the deal is connected with respondent P. F. Collier & Son Corporation's advertising program.

21. The representations as set forth in subparagraphs (e) and (f) of Finding 11 are false, misleading and deceptive. In truth and in fact, the offer of the encyclopedia to the persons indicated was not a special introductory offer nor one being made only to a specially selected group in a particular community at the time of the offer. The offer was available to the public generally. In truth and in fact, the sales promotion was not to be held at a later date but was being conducted at the time solicitations were being made, as indicated. (See evidence and references in Findings 19 and 20, above.) It is plain, also, from the testimony of respondent P. F. Collier & Son Corporation's employees that prospects were contacted by going from door to door in randomly selected neighborhoods. (Edwards, district sales manager, Tr. 2904, Schanz, salesman, Tr. 926.) Some customers testified that they eventually realized that they had not been specially selected, *e.g.*, the testimony of Donald Druckenmiller, Tr. 83.

22. The representation set forth in subparagraph (g), above, in Finding 11, is false, misleading and deceptive. In truth and in fact, the year book usually and regularly sold for $3.95 and not for $10.00. Sales in the combination offer were made at $3.95 each and none at $10.00. (See purchase agreements in the record upon which the price of $3.95 is printed, *e.g.*, CX 1, and the testimony of district sales manager Davis at Tr. 910.) The books are not presented for sale separately; they are sold only under the combination offer. (Tr. 910.) It is a reasonable inference from the evidence that few, if any, books were sold at $10.00 outside of the combination offer. Plainly, the year book was usually and regularly sold for $3.95 and was not being specially offered to the prospect at that price.

23. The representation set forth in subparagraph (h) of Finding 11, above, is false, misleading and deceptive. In truth and in fact, books in the combination offer other than the encyclopedia were not free of cost with the purchase of the encyclopedia and the annual supplements or year books. The cost of such books was included in the contract price of the combination offer. This is clear from evidence such as respondent P. F. Collier & Son Corporation's approved sales talk (CX 9, pp. 10 A–I), advertisements (CX 11), price lists (CXs 13–15), brochures (CX 18), and sales literature generally. For instance, a statement on CX 13, as well as on CX 14, reads in part as follows:

Any additional title may be added to any Special Combination Offer by increasing the price of the latter to the extent of the price of the title added.

That separate books were not given free is disclosed by the testimony of respondent P. F. Collier & Son Corporation's district sales manager in Chicago, Illinois, who testified in part:

I mean, we show them all these products, but we do not present them for sale separately. We offer them for sale under the combination offer because this is an easier offer to sell because if a man were to sell each item individually, the customer would have to take and pay more, and this gives the salesman a talking point. You buy the package offer and you would save money rather than buying the individual items separately. (Tr. 910.)

24. The representation set forth in subparagraph (i) of Finding 11, above, is false, misleading and deceptive. In truth and in fact, the encyclopedia set offered to the prospects called upon, referred to in Finding 11, was not nationally advertised at $389. The set offered was different from that which was nationally advertised at $389, with a less expensive binding and other different features. For example, the set which was sold to Charles E. Hollar for $299.50 was represented as a set costing normally $389.00. (Tr. 28.) This set, as shown by CX 1, was bound in Du Pont Fabrikoid, whereas the set advertised nationally for $389.50 was bound in "genuine Gahna leather." (CX 11.) (Also, see evidence as to prices, including price lists (CXs 13–15) and the testimony of respondent P. F. Collier & Son Corporation's official, John Boe (Tr. 1560, 1569–1570).)

25. The representation as set forth in subparagraph (j), above, in Finding 11, is false, misleading and deceptive. In truth and in fact, respondent P. F. Collier & Son Corporation's offer in the instances set forth in the finding was neither special nor was it limited to the time when the call was made on the prospective customer. That respondent P. F. Collier & Son Corporation's representations were all made in the course of its regular door-to-door selling promotions and that they were not special or limited is shown by many documents in the record, including the sales presentations and the testimony of salesmen.

26. The representation as set forth in subparagraph (k) of Finding 11, above, is false, misleading and deceptive. In truth and in fact, respondent P. F. Collier & Son Corporation had no 10-year deferred payment plan. Its regular deferred payment time was about 24 to 30 months. The representation of a longer period was made to falsely suggest to the prospect a lower monthly cost whereas, in fact, the monthly payments were higher amounts

based on respondent P. F. Collier & Son Corporation's regular deferred payment period. Evidence supporting this finding includes the sales presentations, *e.g.*, CX 9, p. 10–I; the testimony of the witnesses, Boris, Tr. 821, Herman, Tr. 313–316, and others; and respondent P. F. Collier & Son Corporation's price lists, CXs 13–15. The latter demonstrate that 10-year deferred payment plans were not offered. For instance, in 1959, on a purchase price of $299.50, the minimum down payment was $10 and the minimum monthly payment was $10, which would result in a full payment in approximately 29 months.

27. The use by respondent P. F. Collier & Son Corporation of the foregoing false, misleading and deceptive statements and representations has had, and now has, the tendency and capacity to mislead and deceive members of the purchasing public into the erroneous and mistaken belief that such statements were and are true, and to enter into contracts for respondent P. F. Collier & Son Corporation's products because of such erroneous and mistaken belief. As a result thereof, substantial trade in commerce has been, and is now being unfairly diverted to respondent P. F. Collier & Son Corporation and its successor from its competitors and substantial injury has been, and is being, done to competition in commerce among and between the various States of the United States and in the District of Columbia.

CONCLUSIONS

1. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent P. F. Collier & Son Corporation.

2. The proceeding is in the public interest.

3. The aforesaid acts and practices of respondent P. F. Collier & Son Corporation, as herein found, were and are all to the prejudice and injury of the public and of respondent P. F. Collier & Son Corporation's 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 P. F. Collier & Son Corporation under this or any other name, its successor or assign and officers,

agents, representatives, salesmen, and employees, directly or indirectly, through any corporate or other device, in connection with the publication and direct or door-to-door sale and distribution of encyclopedias, books, publications or other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or indirectly, that:

a. Respondent's representative making the call is conducting a survey of any kind, is engaged in a brand identification program, is connected with respondent's advertising, promotion, publicity, education or any department other than sales, is calling on a special list of people or is not selling anything;

b. Respondent is offering encyclopedias or other books or articles, alone or in combination, free of any cost or charge or at a reduced price (1) in return for a letter from the purchaser with his or her opinion about the encyclopedia and permission to use the purchaser's name or (2) on the condition of the purchase of the yearly supplement or any other book or article;

c. Respondent, under any circumstances, is offering encyclopedias, alone or in combination, free of any cost or without any charge or obligation;

d. The offer of respondent's encyclopedia is a "special introductory offer" or that any offer is limited in point of time or in any manner;

e. The offer of the encyclopedia or any other book or article (1) is being made to a specially selected group of people or (2) is not being offered to the public generally at the time of the call of the representative or (3) is made in advance of the general sales promotion of the item which will be conducted at a later date;

f. Respondent's annual supplement or year book usually and regularly sells for $10.00 or any amount in excess of the price usually and regularly charged for the book;

g. The encyclopedia offered to the prospective customer is nationally advertised for $389 or any sum of money which is in excess of the price at which respondent's encyclopedia of the same grade and quality as that shown to the prospect is regularly sold to the purchasing public at such time;

h. The cost of respondent's encyclopedia, book, publication or other article of merchandise may be paid for over a 10-year period or other specified period of time when such time is in excess of the period of time within which respondent will accept deferred payments.

2. Misrepresenting:

a. The prices of or the savings available to members of the public or to purchasers of respondent's merchandise by means of comparative prices or in any other manner;

b. The employment status of respondent's salesmen or representatives; or

c. The nature of, or the conditions connected with, the offer of merchandise made to members of the public or to purchasers.

3. Failing to disclose at the time admission is sought into the home, office or other establishment of the prospective purchaser or purchaser that the person making the call is respondent's salesman and is soliciting the sale of respondent's merchandise.

4. Using any plan, scheme or ruse as a door-opener to gain admission into a prospect's home, office or other establishment, which misrepresents the true status and mission of the person making the call.

It is further ordered, That this order shall not become effective until further order of the Commission.

It is further ordered, That P. F. Collier and Son Corporation or any successor or assign of the business thereof which may now be in existence, shall, within sixty (60) days after the effective date 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

NATIONAL HEALTH AND LIFE INSURANCE COMPANY

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

Docket C-1116. Complaint, Sept. 30, 1966—Decision, Sept. 30, 1966

Consent order requiring a St. Louis, Mo., health and life insurance company

to cease misrepresenting the coverage and benefits provided in its insurance policies.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as that Act is applicable to the business of insurance under the provisions of Public Law 15, 79th Congress (Title 15, U.S. Code, Sections 1011 to 1015, (inclusive)), and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that National Health and Life Insurance Company, a corporation, hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent National Health and Life Insurance Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its principal office and place of business located at 411 North Tenth Street in the city of St. Louis, State of Missouri.

PAR. 2. Respondent is now, and for some time last past has been, engaged as an insurer in the business of insurance in commerce, as "commerce" is defined in the Federal Trade Commission Act. As a part of said business in "commerce," respondent enters into insurance contracts with insureds located in various States of the United States other than the State of Missouri in which States the business of insurance is not regulated by State law to the extent of regulating the practices of respondent alleged in this complaint to be illegal.

PAR. 3. Respondent, in conducting the business aforesaid, has sent and transmitted and has caused to be sent and transmitted, by means of the United States mails and by various other means, letters, application forms, contracts, checks and other papers and documents of a commercial nature from its place of business in the State of Missouri to purchasers and prospective purchasers located in various other States of the United States and has thus maintained a substantial course of trade in said insurance contracts or policies in commerce between and among the several States of the United States.

PAR. 4. Respondent is licensed, as provided by State law, to conduct the business of insurance only in the State of Missouri. Respondent is not now, and for some time last past has not been, li-

censed as provided by State law to conduct the business of insurance in any State other than the State of Missouri.

PAR. 5. Respondent solicits business by direct mail and by and through various publications such as magazines and newspapers in various States of the United States in addition to the State named in Paragraph Four above. As a result thereof, it has entered into insurance contracts with insureds located in many States in which it is not licensed to do business. Respondent's said business practices are, therefore, not regulated by State law in any of those States in which respondent is not licensed to do business as it is not subject to the jurisdiction of such States.

PAR. 6. In the course and conduct of said business and for the purpose of inducing the purchase of said policies respondent has made, and is now making, numerous statements and representations concerning the coverage and benefits provided in said policies by means of circulars, folders, magazine advertisements, newspaper advertisements and other advertising material disseminated throughout the various states of the United States.

Typical and illustrative, but not all inclusive of such statements and representations, are the following:

If you qualify, you get an iron-clad guarantee which pays you at the rate of $1,000.00. CASH a month beginning the first day for your full stay in any hospital (other than a sanitarium, rest home or government hospital) due to accidental injury. Even if you're confined only for one day, you still get $33.00. There are no gimmicks. Your policy will have No Exceptions, No Exclusions, No Limitations, no waiting periods, no ifs, ands or buts.

* * * * * * *

THIS PLAN PAYS CASH WHILE YOU ARE HOSPITALIZED FOR ANY ACCIDENT, ANYTIME, ANWHERE IN THE WORLD. You *DON'T* have to be hurt in any particular kind of accident such as: Auto, Pedestrian, Bus, Traffic, Train, etc. *All* Accidents are covered. At Home, at Work, at Play—TWENTY-FOUR HOURS A DAY.

* * * * * * *

$1,000
a month
cash policy

which pays $33.33 cash each day you are in the hospital for ANY accident anytime, anywhere—EVEN FOR A LIFETIME.

* * * * * * *

an iron-clad guarantee which pays you at the rate of $1,000.00 *CASH* a month beginning the first day you are in a hospital (other than a sanitarium, rest home or government hospital) from *any* accident.

* * * * * * *

Here is your policy. Now you can see for yourself, in simple language, how it

guarantees to pay you at the rate of $1,000.00 cash a month for Life while you are hospitalized from any accident, with no exceptions, exclusions, or limitations.

* * * * * * *

You get ONE THOUSAND DOLLARS A MONTH CASH when you are in a hospital because of any accident, anytime, twenty-four hours a day, anywhere in the world.

* * * * * * *

NATIONAL HEALTH
"AT WORK"

A FEW TYPICAL CASES OF BENEFITS PAID

February 1966

Benefits are being paid in every state of the United States. This list represents only a very few of the benefits paid last month throughout the country.

There follows a list of twenty files in which benefits are purported to have been paid. The following is an example from that list.

FILE#	JACK McDONALD, McNARY, OREGON	*BENEFIT PAID*
36-8219	Twisted his knee at work and was hospitalized for 18 days. He was happy to tell us, "I want to thank you for your prompt service on my claim. Christmas looked a little slim at our house until your check arrived. It could not have come at a better time."	$600.00

PAR. 7. By and through the use of the aforementioned statements, and others of similar import and meaning not specifically set out herein, respondent has represented, directly or by implication that it issues an insurance policy which provides, and pursuant to which respondent will pay, benefits at the rate of $1,000 a month or $33.33 a day for hospitalization resulting from any accident without limitation, exclusion or exception.

PAR. 8. In truth and in fact the respondent does not issue an insurance policy which provides, and pursuant to which it will pay without limitation, exclusion or exception benefits for hospitalization resulting from any accident. On the contrary, said policy provides that the respondent will pay benefits in the event of hospital residence occurring solely as the consequence of direct bodily injury resulting from any accident and independently of all other causes while the policy is in force. Further, said policy provides that for the first two years commencing on the date of issue a claim can be denied on the ground that the claimant has a physical condition which existed prior to the effective date of coverage of the insurance policy. Further, the respondent relies on these provisions in denying and reducing claims.

Therefore, the statements and representations as set forth in Paragraphs Six and Seven hereof were and are false, misleading and deceptive.

PAR. 9. In the conduct of its business, at all times mentioned herein, respondent has been in substantial competition, in commerce, with corporations, firms and individuals in the sale of insurance of the same general kind and nature as that sold by respondent.

PAR. 10. The use by respondent of the aforesaid false, misleading and deceptive statements, has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondent's policies by reason of said erroneous and mistaken belief.

PAR. 11. The aforesaid acts and practices of respondent, as herein alleged, were and are all to the prejudice and injury of the public and of respondent's competitors and constituted and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondent named in the caption hereof with violation of the Federal Trade Commission Act, and the respondent having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

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

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent National Health and Life Insurance Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its principal office and place of business located at 411 North Tenth Street, in the city of St. Louis, State of Missouri.

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 respondent National Health and Life Insurance Company, a corporation, and its officers, and respondent's agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of any insurance policy or policies, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Representing, directly or by implication:

1. By the use of such words, terms or phrases as, "guaranteed to pay," "Ironclad guarantee," "no gimmicks," "no exceptions," "no exclusions," "no limitations," "no ifs, ands or buts," or of any other words, terms or phrases that the policy provides insurance coverage broader than that which is actually provided.

2. That any policy provides for indemnification against accident, in any amount or for any period of time, unless a clear definition of the word "accident," in language understandable to persons not familiar with insurance law, is conspicuously and prominently set forth in close conjunction with the representation.

3. That any policy provides for indemnification against accident, in any amount or for any period of time, when the policy provides any limitation on coverage of a loss resulting from accident because of a prior existing condition, unless a clear disclosure of the exact nature of such limitation, in language understandable to persons not familiar with insurance law, is conspicuously and prominently set forth in close conjunction with the representation.

4. That any policy provides for indemnification, in any amount or for any period of time, unless a statement of all the conditions, exceptions, restrictions and limitations affecting the indemnification actually provided is set forth conspic-

uously, prominently and in sufficiently close conjunction with the representations as will fully relieve it of all capacity to deceive.

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

IN THE MATTER OF

DALTON CONE COMPANY DOING BUSINESS as J. & J. RUGS ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL TRADE COMMISSION AND THE TEXTILE FIBER PRODUCTS IDENTIFICATION ACTS

Docket C-1117. Complaint, Oct. 3, 1966—Decision, Oct. 3, 1966

Consent order requiring a Dalton, Ga., carpet manufacturer to cease misbranding, furnishing false guaranties, and failing to keep required records on its textile fiber products in violation of the Textile Fiber Products Identification Act.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and the Textile Fiber Products Identification Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission having reason to believe that Dalton Cone Company, a corporation, doing business as J. & J. Rugs, and Thomas R. Jones, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Textile Fiber Products Identification Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Dalton Cone Company is a corporation doing business as J. & J. Rugs. Said corporation is organized,

existing and doing business under and by virtue of the laws of the State of Georgia.

Respondent Thomas R. Jones is an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. The respondents are engaged in the buying and selling of odd lots of carpet yarns, and also the manufacturing of carpet rolls from such yarns. The respondents have their office and principal place of business located at 805 South Green Street, Dalton, Georgia.

PAR. 2. Subsequent to the effective date of the Textile Fiber Products Identification Act on March 3, 1960 respondents have been and are now engaged in the introduction, delivery for introduction, manufacture for introduction, sale, advertising and offering for sale in commerce and in the importation into the United States of textile fiber products; and have sold, offered for sale, advertised, delivered, transported and caused to be transported, textile fiber products, which have been advertised or offered for sale in commerce; and have sold, offered for sale, advertised, delivered, transported and caused to be transported, after shipment in commerce, textile fiber products, either in their original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act.

PAR. 3. Certain of said textile fiber products were misbranded within the intent and meaning of Section 4(a) of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder, in that they were falsely and deceptively stamped, tagged, labeled, invoiced, advertised, or otherwise identified as to the name or amount of constituent fibers contained therein.

Among such misbranded textile fiber products, but not limited thereto, were textile fiber products with labels which set forth the fiber content as 50% Wool and 50% Acrylic, whereas, in truth and in fact, said product contained substantially different fibers and amounts of fibers.

PAR. 4. Certain of said textile fiber products were further misbranded in that they were not stamped, tagged, labeled or otherwise identified as required under the provisions of Section 4(b) of the Textile Fiber Products Identification Act, and in the manner and form as prescribed by the Rules and Regulations promulgated under said Act.

Among such misbranded textile fiber products, but not limited thereto, were textile fiber products with labels which failed:

1. To disclose the true generic names of the fibers present; and

2. To disclose the percentage of such fibers.

PAR. 5. Respondents have failed to maintain proper records showing the fiber content of the textile fiber products manufactured by them, in violation of Section 6(a) of the Textile Fiber Products Identification Act and Rule 39 of the Regulations promulgated thereunder.

PAR. 6. Respondents have furnished their customers with false guaranties that certain of the textile fiber products were not misbranded or falsely invoiced by falsely representing in writing on invoices that respondents have filed a continuing guaranty under the Textile Fiber Products Identification Act with the Federal Trade Commission in violation of Rule 38(d) of the Rules and Regulations under said Act and Section 10(b) of such Act.

PAR. 7. The acts and practices of the respondents as set forth above were and are in violation of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder, 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.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Textiles and Furs proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act and the Textile Fiber Products Identification Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the respondents 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 respondents have violated the said Acts, 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 Dalton Cone Company, doing business as J. & J. Rugs, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia, with its office and principal place of business located at 805 South Green Street, Dalton, Georgia.

Respondent Thomas R. Jones is an officer of said corporation and his address is the same as that of said corporation.

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

ORDER

It is ordered, That respondents Dalton Cone Company, a corporation doing business as J. & J. Rugs or under any other name, and Thomas R. Jones, 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, delivery for introduction, manufacture for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States of textile fiber products; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber products, which have been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce of any textile fiber products, whether they are in their original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by:

1. Falsely or deceptively stamping, tagging, labeling, invoicing, advertising or otherwise identifying such products as to the name or amount of constituent fibers contained therein.

2. Failing to affix labels to such textile fiber products showing in a clear, legible and conspicuous manner each element of information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act.

B. Failing to maintain and preserve for at least three years proper records showing the fiber content of textile fiber products manufactured by them, as required by Section 6(a) of the Textile Fiber Products Identification Act and Rule 39 of the Regulations promulgated thereunder.

C. Furnishing false guaranties that textile fiber products are not misbranded or otherwise misrepresented under the provisions of the Textile Fiber Products Identification Act.

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

IN THE MATTER OF

HOME CARPET COMPANY, INC., ET AL.

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

Docket C-1118. Complaint, Oct. 3, 1966—Decision, Oct. 3, 1966

Consent order requiring a Silver Spring, Md., dealer in carpeting to cease using bait advertising in promoting the sale of its carpets.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Home Carpet Company, Inc., a corporation, and Henry Richter, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Home Carpet Company, Inc., is a corporation organized, existing and doing business under and by vir-

tue of the laws of the State of Maryland, with its principal office and place of business located at 8307 Fenton Street, in the city of Silver Spring, State of Maryland.

Respondent Henry Richter is an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His business address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of floor covering products to the public.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said products, when sold, to be shipped from their place of business in the State of Maryland to purchasers thereof located in various other States of the United States and in the District of Columbia, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of their carpeting, respondents have made numerous statements and representations in advertisements appearing in newspapers of general circulation, respecting the character of their offer to sell and the merchandise included in such offer.

Typical and illustrative, but not all inclusive, of such statements and representations are the following:

BROADLOOM CARPET
3 Rooms Wall to Wall
COMPLETELY INSTALLED
270 Sq. Ft. (30 sq. yds.)
15 Ft. and 12 Ft. Widths
CARPET & PADDING & INSTALLATION
Perfect First Quality Only
PROMPT DELIVERY — ALL COLORS
NO DOWN PAYMENT
Low Monthly Payments
SERVING AREA SINCE 1945
NO EXTRA CHARGES
$109
Completely
Installed

PAR. 5. By and through the use of the above-quoted statements and representations, and others of similar import and meaning, but not specifically set out herein, the respondents have represented, directly or by implication, that they were making a bona

fide offer to sell the advertised carpeting at the price and on the terms and conditions specified in the advertisement.

PAR. 6. In truth and in fact, respondents' offers were not bona fide offers to sell the said carpeting at the aforestated advertised price and on the terms and conditions therein stated but were made for the purpose of obtaining leads and information as to persons interested in the purchase of carpeting. After obtaining leads through response to said advertisements, respondent Henry Richter called upon such persons but made no effort to sell the carpeting at the aforesaid advertised price. Instead, he exhibited samples of the advertised carpeting, in demonstrating that it was manifestly unsuitable for the purpose intended, in disparaging the advertised carpeting and in using other tactics in such a manner as to discourage its purchase, and attempted to and frequently did, sell much higher priced carpet.

Therefore, the statements and representations as set forth in Paragraphs Four and Five hereof were and are false, misleading and deceptive.

PAR. 7. By and through the use of the phrase "CARPET & PADDING & INSTALLATION" in said advertising, respondents represent and have represented, directly or by implication, that all of the carpet mentioned in such advertisements is installed with separate padding included at the advertised price.

PAR. 8. In truth and in fact, some of the carpet mentioned in such advertisements has a rubberized backing and is not installed with separate padding included at the advertised price.

Therefore, the statements and representations as set forth in Paragraphs Four and Seven hereof were and are false, misleading and deceptive.

PAR. 9. In the conduct of their business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of floor covering products of the same general kind and nature as those sold by respondents.

PAR. 10. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 11. The aforesaid acts and practices of respondents, as

herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

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

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Home Carpet Company, Inc., is a corporation organized, 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 8307 Fenton Street, in the city of Silver Spring, State of Maryland.

Respondent Henry Richter is an officer of said corporation and his address is the same as that of said corporation.

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

ORDER

It is ordered, That respondents Home Carpet Company, Inc., a corporation, and its officers, and Henry Richter, 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 advertising, offering for sale,

sale or distribution of floor covering products, or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using, in any manner, a sales plan, scheme or device wherein false, misleading or deceptive statements or representations are made in order to obtain leads or prospects for the sale of merchandise or services.

2. Making representations purporting to offer merchandise for sale when the purpose of the representation is not to sell the offered merchandise but to obtain leads or prospects for the sale of other merchandise at higher prices.

3. Discouraging the purchase of, or disparaging, any merchandise or services which are advertised or offered for sale.

4. Representing, directly or by implication, that any merchandise or services are offered for sale when such offer is not a bona fide offer to sell said merchandise or services.

5. Representing, directly or by implication, that floor covering products are installed with separate padding included at a stated price: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that where so represented separate padding is in fact installed at the stated price.

6. Misrepresenting, in any manner, the prices, terms or conditions under which respondents supply separate padding in connection with the sale of floor covering products.

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

IN THE MATTER OF

ARTISTIC LEATHER GOODS MFG. CORP. ET AL.

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

Docket C-1119. Complaint, Oct. 3, 1966—Decision, Oct. 3, 1966

Consent order requiring one Puerto Rican and two Brooklyn, N.Y., manufacturers of leather and plastic accessories and assorted school items to cease misrepresenting the quality of leather in its products, failing to dis-

close that some of its products were composed of simulated leather, and failing to use foreign origin indicia on parts of its products which were imported.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Artistic Leather Goods Mfg. Corp., a corporation, United Leather Goods Corporation, a corporation, Steer Leather Goods Corp., a corporation and David Weisglass, individually and as an officer of each of said corporations, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Artistic Leather Goods Mfg. Corp., hereinafter called "Artistic," is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its principal office and place of business located at 62 Keap Street, Brooklyn, New York.

Respondent United Leather Goods Corporation, hereinafter called "United," is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 62 Keap Street, Brooklyn, New York.

Respondent Steer Leather Goods Corp., hereinafter called "Steer," is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Puerto Rico, with its principal office and place of business located at Caguas, Puerto Rico and with a mailing address of P.O. Box 584, Caguas, Puerto Rico.

Respondent David Weisglass is an officer of each of the corporate respondents. He formulates, directs and controls their respective acts and practices, including those hereinafter set forth. His address is the same as that of the first two named corporate respondents.

Respondent David Weisglass owns all of the outstanding and issued capital stock of each of the said respondent corporations. The acts and practices of each of the said respondent corporations are closely interrelated through such exclusive stock ownership as aforesaid, as well as through the use of common offices and

places of business at 62 Keap Street, Brooklyn, New York, and also through the said respondent David Weisglass' control of the operations of Steer Leather Goods Corp. as a supplier of substantial quantities of wallets and similar products to the corporate respondent, Artistic Leather Goods Mfg. Corp.

PAR. 2. Respondent Artistic Leather Goods Mfg. Corp. is now, and for some time last past has been, engaged in the manufacture, packaging, advertising, offering for sale, sale and distribution of wallets, billfolds, key chains and other small leather and plastic accessories to jobbers and retailers for resale to the public.

Respondent United Leather Goods Corporation is now, and for some time last past has been, engaged in the manufacture, advertising, offering for sale, sale and distribution of school bags, ring binders and various assorted school items to jobbers and retailers for resale to the public.

Respondent Steer Leather Goods Corp., is now, and for some time last past has been, engaged in the manufacture and sale of wallets, billfolds, key chains and other small leather and plastic accessories, and it supplies substantial quantities thereof to the respondent Artistic Leather Goods Mfg. Corp.

PAR. 3. In the course and conduct of their business, respondents Artistic and United, now cause, and for some time last past have caused, their respective products, when sold, to be shipped from their place of business, in the State of New York to purchasers thereof located in various other States of the United States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade of said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

In the course and conduct of its business, respondent Steer now causes, and for some time last past has caused, its products, when sold, to be shipped from its place of business in the Commonwealth of Puerto Rico, to purchasers thereof located in various States of the United States of America, and maintains and at all times mentioned above has maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of its aforesaid business, and for the purpose of inducing the purchase of their said products, respondents Artistic and Steer have stamped, branded, tagged and labelled their said products with numerous statements and representations purporting to identify the materials from which

their products were made and have manufactured and finished said products to have the appearance of being composed or made of materials different from that actually contained therein.

Typical and illustrative of such statements, representations and practices but not all inclusive thereof, are the following:

A. "TOP GRAIN COWHIDE."

B. "GENUINE LEATHER AND TWIN-HYDE."

C. In many instances, wallets which did not bear the above quoted markings, or any other disclosure of the material of which they were made, were composed in whole or in part of non-leather materials which simulated genuine leather.

D. In many instances, wallets were made in whole or in part of split leather having the appearance of top grain leather without disclosure of such fact.

PAR. 5. By and through the use of the foregoing statements, representations and practices and others similar thereto not specifically set out herein, respondents Artistic and Steer, represent, and have represented, directly or by implication:

A. That said products stamped "Top Grain Cowhide" are made entirely out of top grain leather.

B. Through the use of the term "Twin-Hyde" that portions of the said products so described were made of leather.

C. Through the undisclosed use of materials which simulate leather, that said products were made in whole or in part of leather.

D. Through the undisclosed use of split leather which simulates top grain leather, that said products were made in whole or in part of top grain leather.

PAR. 6. In truth and in fact:

A. Said products bearing the words "Top Grain Cowhide" are not made entirely from top grain leather.

B. The portions of said products described by the words "Twin-Hyde" are of non-leather materials.

C. Said products made of materials which simulate leather were not made of leather.

D. Said products made of split leather having the appearance of top grain leather are not made of top grain leather.

PAR. 7. In the course and conduct of its said business, respondent United obtains substantial quantities of metal spring clip board mechanisms from Japan. Respondent employs said mechanisms as a component in the manufacture of clip boards by affixing said mechanisms to boards which form the base of clip

boards. Before assembly by the respondent, said mechanisms contain a visible origin mark of "JAPAN" engraved in one surface of said mechanism. After assembly by the respondent, the surface on which said disclosure of origin appears is affixed to the base of the clip board in such a manner as to conceal the said origin disclosure without destroying, damaging or disassembling the said finished product.

Said respondent also obtains substantial quantities of metal loose leaf ring binder mechanisms and metal spring pencil clip mechanisms which are made in Japan. Respondent employs said mechanisms as components by assembling same with binder covers in the manufacture of loose leaf ring binder note books. Before assembly by the respondent, said mechanisms contain a visible origin mark of "JAPAN" engraved on the surface thereof. After assembly by the respondent, the surface on which said disclosure of origin appears is covered by the binder portion of the finished product in such a manner as to conceal the said origin disclosure without destroying, damaging or disassembling the said finished product.

Said respondent also obtains substantial quantities of childrens' school bags which are made in Japan. The only disclosure of the origin of such bags is made on a small cloth tag stitched to an inner surface of said bags which cannot be seen when the straps thereof are closed. When the straps of the bag are opened, the said tag cannot be readily seen except on close examination. The tag is located on an inner surface of the bag in such a manner as to lack sufficient clarity and conspicuity as likely to be observed and read by purchasers and prospective purchasers making casual inspection of the product.

PAR. 8. In the absence of an adequate disclosure that a product or the substantial components thereof, including clip boards, loose leaf ring binders and school bags, is of foreign origin, the public believes and understands that it is of domestic origin, a fact of which the Commission takes official notice.

As to the aforesaid articles of merchandise, a substantial portion of the purchasing public has a preference for said articles which are of domestic origin, of which fact, the Commission also takes official notice. Respondents' failure to clearly and conspicuously disclose the country of origin of said articles of merchandise, or, substantial components thereof, is therefore to the prejudice of the purchasing public.

PAR. 9. By the aforesaid practices, the respondents Artistic and

Steer place in the hands of wholesalers, distributors and retailers, means and instrumentalities by and through which they may mislead the public as to the nature and identity of the materials contained in said wallets and billfolds.

Likewise, by the aforesaid practices, the respondent United places in the hands of wholesalers, distributors and retailers, means and instrumentalities by and through which they may mislead the public as to the country of origin of said clip boards, loose leaf ring binders and school bags or the substantial components thereof.

PAR. 10. In the conduct of their respective businesses, at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of products of the same kind and general nature as those sold by respondents.

PAR. 11. The use by the respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 12. The aforesaid acts and practices of respondents, as herein alleged, were and are, all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

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

forth in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Artistic Leather Goods Mfg. Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its principal office and place of business located at 62 Keap Street, Brooklyn, New York.

Respondent United Leather Goods Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 62 Keap Street, Brooklyn, New York.

Respondent Steer Leather Goods Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Puerto Rico, with its principal office and place of business located at Caguas, Puerto Rico, and with a mailing address of P. O. Box 584, Caguas, Puerto Rico.

Respondent David Weisglass is an officer of each of the corporate respondents and his address is 62 Keap Street, Brooklyn, New York.

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

I. *It is ordered*, That respondents Artistic Leather Goods Mfg. Corp., a corporation, and Steer Leather Goods Corp., a corporation, and the officers of each of said corporations, and David Weisglass, individually and as an officer of each of said corporations, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of wallets, billfolds or other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the words "Top Grain," "Top Grain Cowhide," "Genuine Leather," or any other words of similar import, in connection with said products made of split leather; or misrepresenting, in any manner, the kind or quality of the materials of which their said products are composed.

2. Offering for sale, selling or distributing said products made in whole or in part of split leather without a clear and conspicuous disclosure in immediate connection therewith to purchasers making casual inspection thereof of the portion or portions thereof which are made of split leather.

3. Offering for sale, selling or distributing said products made in part of leather and in substantial part of material other than leather without a clear and conspicuous disclosure in immediate connection therewith to purchasers making casual inspection thereof of the portion or portions thereof which are not made of leather.

4. Offering for sale, selling or distributing said products made of non-leather materials having the appearance of leather without a disclosure which will clearly and conspicuously show to purchasers making casual inspection thereof that the portions of the product which simulate leather are not in fact leather.

5. Using the word "Twin-Hyde" or any other word or term suggestive of leather to designate or describe a product or part thereof not composed solely of leather without a clear and conspicuous disclosure in immediate connection therewith to purchasers making casual inspection thereof that the portion or portions of said product which simulate leather are not in fact leather.

6. Placing in the hands of distributors, retailers and others, the means and instrumentalities by and through which they may deceive and mislead the purchasing public concerning any merchandise in the respects set out above in paragraphs 1 to 5 inclusive hereof.

II. *It is further ordered*, That respondents United Leather Goods Corporation, a corporation, and its officers, and David Weisglass, 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 or distribution of loose leaf note books, clip boards, school bags or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Offering for sale, selling or distributing any such products which are substantially, or which contain a substantial part or parts, of foreign origin or fabrication without affirmatively disclosing the country or place of foreign origin

or fabrication thereof on the products themselves, by marking or stamping on an exposed surface, or on a label or tag affixed thereto, of such a degree of permanency as to remain thereon until consummation of consumer sale of the products, and of such conspicuousness as likely to be observed and read by purchasers and prospective purchasers making casual inspection of the product.

2. Offering for sale, selling or distributing any such product packaged, mounted in a container, or on a display card or other display device, without disclosing the country or place of foreign origin of the product, or substantial part or parts thereof, on the front or face of such packaging, container, display card or other display device, so positioned as to clearly have application to the product so packaged or mounted, and of such degree of permanency as to remain thereon until consummation of consumer sale of the product, and of such conspicuousness as likely to be read by purchasers making casual inspection of the product as so packaged or mounted.

3. Placing in the hands of distributors, retailers and others, means and instrumentalities by and through which they may deceive and mislead the purchasing public concerning any merchandise in the respects set out above in Paragraph II, 1 and 2 hereof.

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

IN THE MATTER OF

KIRCHEN BROTHERS ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL TRADE COMMISSION AND THE FLAMMABLE FABRICS ACTS

Docket C-1120. Complaint, Oct. 10, 1966—Decision, Oct. 10, 1966

Consent order requiring a Chicago importer and seller of handicraft materials to cease and desist from importing, selling, and transporting any fabric so highly flammable as to endanger persons who wear it.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission having reason to believe that Kirchen Brothers, a corporation, and John Abens and Grover Kirchen, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Flammable Fabrics Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Kirchen Brothers is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois. Individual respondent John Abens is president and treasurer and individual respondent Grover Kirchen is secretary of the corporate respondent. They formulate, direct and control the policies, acts and practices of the corporate respondent. All respondents are engaged in the importation and sale of handicraft materials and their office and principal place of business is located at 318 West Washington Street, Chicago, Illinois.

PAR. 2. Respondents, subsequent to July 1, 1954, the effective date of the Flammable Fabrics Act, have sold and offered for sale, in commerce; have imported into the United States; and have introduced, delivered for introduction, transported and caused to be transported for the purpose of sale or delivery after sale, in commerce; as "commerce" is defined therein, fabric as that term is defined therein, which fabric was, under Section 4 of the Flammable Fabrics Act, as amended, so highly flammable as to be dangerous when worn by individuals.

PAR. 3. The aforesaid acts and practices of respondents were and are in violation of the Flammable Fabrics Act and the Rules and Regulations promulgated thereunder, and as such constitute unfair methods of competition and unfair and deceptive acts and practices in commerce, within the intent and meaning of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished there-

after with a copy of a draft of complaint which the Bureau of Textiles and Furs proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act and the Flammable Fabrics Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the respondents 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 respondents have violated said Acts, 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 Kirchen Brothers is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 318 West Washington Street, Chicago, Illinois.

Respondents John Abens and Grover Kirchen are officers of said corporation and their address is the same as that of said corporation.

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

ORDER

It is ordered, That respondents Kirchen Brothers, a corporation, and its officers, and John Abens and Grover Kirchen, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from:

(a) Importing into the United States; or

(b) Selling, offering for sale, introducing, delivering for introduction, transporting, or causing to be transported, in commerce, as "commerce" is defined in the Flammable Fabrics Act; or

(c) Transporting or causing to be transported, for the purpose of sale or delivery after sale in commerce,

any fabric which, under the provisions of Section 4 of the said Flammable Fabrics Act, as amended, is so highly flammable as to be dangerous when worn by individuals.

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

IN THE MATTER OF

JOETTE COAT AND SUIT CO., INC., ET AL.

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

Docket C-1121. Complaint, Oct. 10, 1966—Decision, Oct. 10, 1966

Consent order requiring two New York City coat and suit manufacturers to cease misbranding, deceptively invoicing and falsely guaranteeing its fur and wool products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, the Fur Products Labeling 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 having reason to believe that Joette Coat and Suit Co., Inc., a corporation, and Joseph Springer, Inc., a corporation, and Joseph Springer, individually and as an officer of said corporations, and Charles Yoel, individually and as an employee of said corporations, 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 the Wool Products Labeling Act of 1939 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. Respondents Joette Coat and Suit Co., Inc., and Joseph Springer, Inc., are corporations organized, existing and doing business under and by virtue of the laws of the State of New York.

Respondent Joseph Springer is an officer of the corporate respondents and formulates, directs and controls the acts, practice and policies of the said corporate respondents including those hereinafter set forth.

Respondent Charles Yoel is an employee of the corporate respondents and formulates, directs and controls the acts, practices and policies of the said corporate respondents including those hereinafter set forth.

Respondents are manufacturers of fur products and wool products with their office and principal place of business located at 246 West 38th Street, in the city of New York, State of 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 furs which have 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 falsely and deceptively labeled or otherwise falsely or deceptively identified with respect to the name of the country of origin of furs contained in such fur products, in violation of Section 4(1) of the Fur Products Labeling Act.

Among such misbranded fur products, but not limited thereto, were fur products labeled to show the country of origin of furs used in such fur products as United States when the country of origin of such furs was, in fact, either Sweden, Poland or Germany.

PAR. 4. 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.

Among such misbranded fur products but not limited thereto, were fur products with labels which failed to show the country of origin of the imported furs contained in the fur products.

PAR. 5. Certain of said fur products were misbranded in viola-

tion of the Fur Products Labeling Act in that they when not labeled in accordance with Rules and Regulations promulgated thereunder inasmuch as required item numbers were not set forth on labels, in violation of Rule 40 of said Rules and Regulations.

PAR. 6. Certain of said fur products were falsely and deceptively invoiced by the respondents in that they were not invoiced as required by Section 5(b) (1) of the Fur Products Labeling Act and the Rules and Regulations promulgated under such Act.

Among such falsely and deceptively invoiced fur products, but not limited thereto, were fur products covered by invoices which failed:

1. To show the true animal name of the fur used in any such fur product.

2. To show the country of origin of imported furs used in fur products.

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 Rules and Regulations promulgated thereunder inasmuch as required item numbers were not set forth on invoices, in violation of Rule 40 of said Rules and Regulations.

PAR. 8. Respondents furnished false guaranties under Section 10(b) of the Fur Products Labeling Act with respect to certain of their fur products by falsely representing in writing that respondents had a continuing guaranty on file with the Federal Trade Commission when respondents in furnishing such guaranties had reasons to believe that the fur products so falsely guaranteed would be introduced, sold, transported and distributed in commerce, in violation of Rule 48(c) of said Rules and Regulations under the Fur Products Labeling Act and Section 10(b) of said Act.

PAR. 9. 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 and unfair methods of competition in commerce under the Federal Trade Commission Act.

PAR. 10. Subsequent to the effective date of the Wool Products Labeling Act of 1939, respondents have manufactured for introduction into commerce, introduced into commerce, sold, transported, distributed, delivered for shipment, shipped and offered

for sale in commerce, as "commerce" is defined in said Act, wool products as "wool product" is defined therein.

PAR. 11. Certain of said wool products were misbranded by the respondents within the intent and meaning of Section 4(a) (1) of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder in that they were falsely and deceptively labeled or tagged with respect to the character and amount of the constituent fibers contained therein.

Among such misbranded wool products but not limited thereto, were wool products labeled or tagged by respondents as 100% Wool, whereas in truth and in fact said products contained substantially less than 100% Wool.

PAR. 12. Certain of said wool products were further misbranded by respondents in that they were not stamped, tagged, labeled or otherwise identified as required under the provisions of Section 4(a) (2) of the Wool Products Labeling Act of 1939 and in the manner and form as prescribed by the Rules and Regulations promulgated under said Act.

Among such misbranded wool products, but not limited thereto, were certain wool products with labels which failed to disclose the percentage of the total fiber weight of the said wool product, exclusive of ornamentation not exceeding 5% of the total fiber weight, of (1) wool; (2) reprocessed wool; (3) reused wool; (4) each fiber other than wool present in the wool product when said percentage of weight of such fiber was 5% or more; and (5) the aggregate of all other fibers.

PAR. 13. The acts and practices of the respondents as set forth in Paragraphs Eleven and Twelve were, and are, in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, 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.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Textiles and Furs proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commis-

sion Act, the Fur Products Labeling Act and the Wool Products Labeling Act of 1939; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the respondents 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 respondents have violated said Acts, 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. Respondents Joette Coat and Suit Co., Inc., and Joseph Springer, Inc., are corporations organized, existing and doing business under and by virtue of the laws of the State of New York, with their office and principal place of business located at 246 West 38th Street, New York, New York.

Respondent Joseph Springer is an officer, and respondent Charles Yoel is an employee, of said corporations, and their address is the same as that of said corporations.

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

ORDER

It is ordered, That respondents Joette Coat and Suit Co., Inc., a corporation, and its officers, and Joseph Springer, Inc., a corporation, and its officers, and Joseph Springer, individually and as an officer of said corporations, and Charles Yoel, individually and as an employee of said corporations, 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, in commerce, or the transportation and distribution in commerce of any fur product; or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation or distribution, of any fur product which is made in whole or in

part of fur which has been shipped and received in commerce, as the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by:

1. Falsely or deceptively labeling or otherwise identifying any such fur product as to the country of origin of furs contained in such fur product.

2. Failing to affix labels to fur products showing in words and in figures plainly legible all of the information required to be disclosed by each of the subsections of Section 4(2) of the Fur Products Labeling Act.

3. Failing to set forth on labels the item number or mark assigned to each such fur product.

B. Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices, as the term "invoice" is defined in the Fur Products Labeling Act, showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of Section 5(b)(1) of the Fur Products Labeling Act.

2. Failing to set forth on invoices the item number or mark assigned to each such fur product.

It is further ordered, That respondents Joette Coat and Suit Co., Inc., a corporation, and its officers, and Joseph Springer, Inc., a corporation, and its officers, and Joseph Springer, individually and as an officer of said corporations, and Charles Yoel, individually and as an employee of said corporations, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from furnishing a false guaranty that any fur product is not misbranded, falsely invoiced or falsely advertised when the respondents have reason to believe that such fur product may be introduced, sold, transported, or distributed in commerce.

It is further ordered, That respondents Joette Coat and Suit Co., Inc., a corporation, and its officers, and Joseph Springer, Inc., a corporation, and its officers, Joseph Springer, individually and as an officer of said corporations, and Charles Yoel, individually and as an employee of said corporations, 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, distribution, delivery for shipment or

shipment in commerce of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from:

A. Misbranding wool products by:

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

2. Failing to securely affix to, or place on, each such product a stamp, tag, label or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by Section 4(a)(2) of the Wool Products Labeling Act of 1939.

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

IN THE MATTER OF

JOSEPH MILL TRADING AS CHICAGO FREEZER MEATS COMPANY

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

Docket C-1122. Complaint, Oct. 11, 1966—Decision, Oct. 11, 1966

Consent order requiring a Chicago distributor of beef and other meat products to cease using bait advertising, deceptive pricing claims and other misrepresentation in selling its products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Joseph Mill, an individual trading as Chicago Freezer Meats Company, hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Joseph Mill is an individual trading

as Chicago Freezer Meats Company with his principal office and place of business located at 5138 West Madison Street in the city of Chicago, State of Illinois.

PAR. 2. Respondent is now, and has been for more than one year last past, engaged in the advertising, offering for sale, sale and distribution of beef and other meat products which come within the classification of food as the term "food" is defined in the Federal Trade Commission Act to members of the purchasing public.

PAR. 3. In the course and conduct of his business, respondent has disseminated and caused the dissemination of certain advertisements by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including advertisements in newspapers, for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of food, as the term "food" is defined in the Federal Trade Commission Act; and has disseminated and caused the dissemination of advertisements by various means, including those aforesaid, for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of food in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Typical of the statements appearing in the newspaper advertisements disseminated as aforesaid are the following:

BEEF SALE
ENDS TUESDAY
We are the only one that we know of who will sell you Beef with the lower part cut off
YOU PAY NO PREMIUM FOR THIS—

EXTRA BONUS
100 PORK CHOPS
With This Order

YOUR GROUND BEEF
IS 100% PURE BEEF
(Depiction of Black Steer)

See my lower part that's boiling beef—fat wasty brisket. Short ribs & soup bone. You don't get any of that!

* * *

MANY BEEF SELECTIONS AT PRICES LISTED BELOW

U.S.D.A. CHOICE BEEF HALVES 35c Lb.

BEEF HALVES 25c Lb.
Example:
200 Lbs. @ 25c Lb. Total $50

* * *

(Chicago Sun-Times, 9-9-65)
"WHO CARES? WE DO"
WE CARE ABOUT OUR CUSTOMERS
* * *

U.S.D.A. CHOICE BEEF	BEEF HINDS 33c Lb.	BEEF HALVES 29c Lb.
HALVES 49c Lb.		Example: 200 lbs. at 29c lb.
(Chicago Sun-Times 2-24-66)		totals $58.00 * * *

PAR. 5. Through the use of the aforesaid advertisements and others of similar import and meaning not specifically set out herein, respondent has represented, directly and by implication:

1. That the offer to sell beef at 25 cents per pound and at various other prices ranging up as high as 49 cents per pound is a bona fide offer to sell beef at such prices.

2. That his meat is being offered at special or reduced prices for a limited time only.

3. That respondent does not sell the lower, less desirable portions of beef such as brisket, shank, plate, flank or flank stew.

4. That all purchasers of a half of beef or more receive a certain number of pork chops or other cut of meat free or without charge.

PAR. 6. In truth and in fact:

1. The offer to sell beef at 25 cents per pound at various other prices ranging up to as high as 49 cents per pound is not a bona fide offer to sell but, on the contrary, is made for the purpose of inducing members of the public to come to respondent's place of business. When prospective customers come to his place of business, respondent or one of his employees undertakes to disparage the beef supposedly offered at the aforesaid prices by stating it is tough, has excessive waste or by other means in an effort to sell beef to such persons at higher prices. If and when such persons do purchase beef from respondent, it is usually sold at prices higher than those advertised.

2. Respondent's meat is not being offered at special or reduced prices for a limited time only. The so-called limited time offer is advertised almost continuously and the prices featured in respondent's advertisements do not afford customers a reduced price or savings but are used in order to lure prospective customers to respondent's place of business so respondent or one of his employees can attempt to sell beef to them at higher prices.

3. Respondent does sell the lower, less desirable portions of beef such as brisket, shank, plate, flank or flank stew. Moreover, when only top portions of beef are sold by respondent, the prices therefore are higher than those featured in respondent's advertisements.

4. Not all purchasers of a half of beef or more receive the free

meat offered and those who receive the free pork chops usually receive a pork loin that is too small to yield the number of pork chops specified in respondent's advertisements.

Therefore, the advertisements referred to hereinabove were, and are, misleading in material respects and constituted, and now constitute, "False advertisements" as that term is defined in the Federal Trade Commission Act.

PAR. 7. The dissemination by respondent of the false advertisements, as aforesaid, constituted and now constitute, unfair and deceptive acts and practices in commerce in violation of Section 5 and 12 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondent named in the caption hereof with violation of the Federal Trade Commission Act, and the respondent having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

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

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Joseph Mill is an individual trading as Chicago Freezer Meats Company, with his principal office and place of business located at 5138 West Madison Street, in the city of Chicago, State of Illinois.

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 interst.

ORDER

It is ordered, That respondent Joseph Mill, an individual doing business as Chicago Freezer Meats 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 or distribution of beef or any other food products, do forthwith cease and desist from:

I. Disseminating, or causing the dissemination of, any advertisement by means of the United States mails or by any means in commerce as "commerce" is defined in the Federal Trade Commission Act, any advertisement which:

A. Represents, directly or by implication:

1. That any such products are offered for sale when such offer is not a bona fide offer to sell such products at the price or prices stated.

2. That any offer is limited as to time: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondent to establish that such time restriction or limitation was actually imposed an in good faith adhered to by respondent.

3. That the price or prices stated are special, reduced or afford a saving to purchasers: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondent to establish that such price or prices were special, reduced, or afford an actual saving to purchasers in conformity with the representation made.

4. That the beef he sells does not include the lower portions of beef.

5. That any product will be furnished free or without cost to persons who purchase products from respondent: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondent to establish that such product was in fact given in each and every instance in which the purchaser fulfilled the conditions specified in the advertisement.

6. That any meat or other product or any specified quantity thereof will be delivered unless the particular product and the amount specified is furnished as represented.

B. Misrepresents in any manner the price, quantity, grade or quality of any such products, or the savings afforded the purchaser.

II. Discouraging the purchase of, or disparaging in any manner, any products which are advertised or offered for sale in advertisements disseminated or caused 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.

III. Disseminating, or causing to be disseminated, any advertisement by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of respondent's products in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any of the representations or misrepresentations prohibited in Paragraphs I A and I B above.

It is further 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 this order.

IN THE MATTER OF

NATIONAL CANVAS PRODUCTS CORP. ET AL.

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

Docket C-1123. Complaint, Oct. 14, 1966—Decision, Oct. 14, 1966

Consent order requiring a Toledo, Ohio, manufacturer and distributor of tents, tarpaulins and other canvas products to cease making false pricing and savings representations and furnishing others the means to make such representations in the advertising of its merchandise.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that National Canvas Products Corp., a corporation, and James D. Kinn, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent National Canvas Products Corp., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its principal office and place of business located at 901 Buckingham Street, Toledo, Ohio.

Respondent James D. Kinn is the president of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices herein set forth. His office and principal place of business is located at 901 Buckingham Street, Toledo, Ohio.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the manufacture, advertising, offering for sale, sale and distribution of tents and tarpaulins and other merchandise to retailers for resale to the public.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, said products, when sold, to be shipped from their place of business in the State of Ohio to retailers thereof located in various States of the United States and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondents, for the purpose of inducing the purchase of their products, have engaged in the practice of using fictitious prices in connection therewith by the following methods and means:

By distributing, or causing to be distributed to retailers and others, catalogs which depict and describe their aforesaid products and contain a stated price for each.

In the manner aforesaid respondents thereby represent, directly or indirectly, that the amounts shown are respondents' bona fide estimate of the actual retail prices of said products in respondents' trade area and that they do not appreciably exceed the highest prices at which substantial sales of said products are made at retail in said trade area.

In truth and in fact said amounts shown are not respondents' bona fide estimate of the actual retail prices of said products in respondents' trade area and they appreciably exceed the highest prices at which substantial sales of said products are made at retail in said trade area.

Therefore, the statements and representations set forth above are false, misleading and deceptive.

PAR. 5. By the aforesaid acts and practices, respondents place in the hands of retailers the means and instrumentalities by and through which they may mislead the public as to the usual and regular retail price of said products.

PAR. 6. In the course and conduct of their business and at all times mentioned herein, respondents have been engaged in substantial competition, in commerce, with corporations, firms and individuals in the sale of products of the same general kind and nature as those sold by respondents.

PAR. 7. The use by the respondents of the aforesaid false, misleading and deceptive statements, representations and practices, has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 8. The aforesaid acts and practices of respondents', as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Deceptive Practices proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the respondents 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 respondents have violated the Federal Trade Commission Act, 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 National Canvas Products Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its principal office and place of business located at 901 Buckingham Street, Toledo, Ohio.

Respondent James D. Kinn is the president of the corporate respondent and his 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 respondents National Canvas Products Corp., a corporation, and its officers, and James D. Kinn, 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 advertising, offering for sale, sale, or distribution of tents, tarpaulins, or other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Advertising, disseminating or distributing any purported retail price unless (a) it is respondents' bona fide estimate of the actual retail price of the product in the area where respondents do business and (b) it does not appreciably exceed the highest price at which substantial sales of said product are made in said trade area.

2. Misrepresenting in any manner the prices at which respondents' merchandise is sold at retail.

3. Furnishing to others any means or instrumentalities whereby the purchasing public may be misled as to the retail prices of respondents' products.

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

Complaint

IN THE MATTER OF

H. WENZEL TENT AND DUCK COMPANY ET AL.

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

Docket C-1124. Complaint, Oct. 14, 1966—Decision, Oct. 14, 1966

Consent order requiring a St. Louis Mo., manufacturer and distributor of tents, tarpaulins and other canvas products to cease making false pricing and savings representations and furnishing others the means to make such representations in the advertising of its merchandise.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that H. Wenzel Tent and Duck Company, a corporation and William H. Wenzel, Fred H. Wenzel and Herman F. Wenzel, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent H. Wenzel Tent and Duck Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its principal office and place of business located at 1280 Research Boulevard, St. Louis, Missouri.

Respondents William H. Wenzel, Fred H. Wenzel and Herman F. Wenzel are officers and directors of the corporate respondent and formulate, direct and control the acts and practices of said corporate respondent including the acts and practices herein set out. The business address of the indvidual respondents is the same as that of said corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the manufacture, advertising, offering for sale, sale and distribution of tents and tarpaulins and other canvas products to retailers for resale to the public.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, said products, when sold, to be shipped from their place of business in the

State of Missouri to retailers thereof located in various States of the United States and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondents, for the purpose of inducing the purchase of their products, have engaged in the practice of using fictitious prices in connection therewith by the following method and means:

By distributing, or causing to be distributed to retailers and others, catalogs which depict and describe their aforesaid products and contain a stated price for each.

In the manner aforesaid respondents thereby represent, directly or indirectly, that the amounts shown are respondents' bona fide estimate of the actual retail prices of said products in respondents' trade area and that they do not appreciably exceed the highest prices at which substantial sales of said products are made at retail in said trade area.

In truth and in fact said amounts shown are not respondents' bona fide estimate of the actual retail prices of said products in respondents' trade area and they appreciably exceed the highest prices at which substantial sales of said products are made at retail in said trade area.

Therefore, the statements and representations set forth above are false, misleading and deceptive.

PAR. 5. By the aforesaid acts and practices, respondents place in the hands of retailers the means and instrumentalities by and through which they may mislead the public as to the usual and regular retail price of said products.

PAR. 6. In the course and conduct of their business and at all times mentioned herein, respondents have been engaged in substantial competition, in commerce, with corporations, firms and individuals in the sale of products of the same general kind and nature as those sold by respondents.

PAR. 7. The use by the respondents of the aforesaid false, misleading and deceptive statements, representations and practices, has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 8. The aforesaid acts and practices of respondents, as herein alleged were, and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Deceptive Practices proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the respondents 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 respondents have violated the Federal Trade Commission Act, 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 H. Wenzel Tent and Duck Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at 1280 Research Boulevard, St. Louis, Missouri.

Respondents William H. Wenzel, Fred H. Wenzel and Herman F. Wenzel are officers of said corporation and their address is the same as that of said corporation.

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

ORDER

It is ordered, That respondent H. Wenzel Tent and Duck Company, a corporation, and its officers, and William H. Wenzel, Fred H. Wenzel and Herman F. Wenzel, 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 advertising, offering for sale, sale, or distribution of tents, tarpaulins, or other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Advertising, disseminating or distributing any purported retail price unless (a) it is respondents' bona fide estimate of the actual retail price of the product in the area where respondents do business and (b) it does not appreciably exceed the highest price at which substantial sales of said product are made in said trade area.

2. Misrepresenting in any manner the prices at which respondents' merchandise is sold at retail.

3. Furnishing to others any means or instrumentalities whereby the purchasing public may be misled as to the retail prices of respondents' products.

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

IN THE MATTER OF

J. W. JOHNSON CO. ET AL.

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

Docket C-1125. Complaint, Oct. 14, 1966—Decision, Oct. 14, 1966

Consent order requiring a Bellwood, Ill., manufacturer and distributor of tents, tarpaulins and other canvas products to cease making false pricing and savings representations and furnishing others the means to make such representations in the advertising of its merchandise.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that J. W. Johnson Co., a corporation, and Ralph E. Johnson, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent J. W. Johnson Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 3100 Randolph, Bellwood, Illinois.

Respondent Ralph E. Johnson is an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the manufacture, advertising, offering for sale, sale and distribution of tents and tarpaulins and other canvas products to retailers for resale to the public.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, said products, when sold, to be shipped from their place of business in the State of Illinois to retailers thereof located in various States of the United States and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondents, for the purpose of inducing the purchase of their products, have engaged in the practice of using fictitious prices in connection therewith by the following method and means:

By distributing, or causing to be distributed to retailers and others, catalogs which depict and describe their aforesaid products and contain a stated price for each.

In the manner of aforesaid respondents thereby represent, directly or indirectly, that the amounts shown are respondents' bona fide estimate of the actual retail prices of said products in

respondents' trade area and that they do not appreciably exceed the highest prices at which substantial sales of said products are made at retail in said trade area.

In truth and in fact said amounts shown are not respondents' bona fide estimate of the actual retail prices of said products in respondents' trade area and they appreciably exceed the highest prices at which substantial sales of said products are made at retail in said trade area.

Therefore, the statements and representations set forth above are false, misleading and deceptive.

PAR. 5. By the aforesaid acts and practices, respondents place in the hands of retailers the means and instrumentalities by and through which they may mislead the public as to the usual and regular retail price of said products.

PAR. 6. In the course and conduct of their business and at all times mentioned herein, respondents have been engaged in substantial competition, in commerce, with corporations, firms and individuals in the sale of products of the same general kind and nature as those sold by respondents.

PAR. 7. The use by the respondents of the aforesaid false, misleading and deceptive statements, representations and practices, has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 8. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Deceptive Practices proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the respondents 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 respondents have violated the Federal Trade Commission Act, 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 J. W. Johnson Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 3100 Randolph, Bellwood, Illinois.

Respondent Ralph E. Johnson is an officer of said corporation, and his address is the same as that of the said corporation.

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

ORDER

It is ordered, That respondents, J. W. Johnson Co., a corporation, and its officers, and Ralph E. Johnson, 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 advertising, offering for sale, sale, or distribution of tents, tarpaulins, or other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Advertising, disseminating or distributing any purported retail price unless (a) it is respondents' bona fide estimate of the actual retail price of the product in the area where respondents do business and (b) it does not appreciably exceed the highest price at which substantial sales of said product are made in the said trade area.

2. Misrepresenting in any manner the prices at which respondents' merchandise is sold at retail.

3. Furnishing to others any means or instrumentalities

whereby the purchasing public may be misled as to the retail prices of respondents' products.

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

IN THE MATTER OF

TOPEKA TENT AND AWNING COMPANY, INC., ET AL.

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

Docket C-1126. Complaint, Oct. 14, 1966—Decision, Oct. 14, 1966

Consent order requiring a Topeka, Kansas, manufacturer and distributor of tents, tarpaulins and other canvas products to cease making false pricing and savings representations and furnishing others the means to make such representations in the advertising of its merchandise.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Topeka Tent and Awning Company, Inc., a corporation, and Willis Anton and Willis Anton, Jr., individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Topeka Tent and Awning Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Kansas, with its principal office and place of business located at 320 East Second Street, in the city of Topeka, State of Kansas.

Respondents Willis Anton and Willis Anton, Jr., are officers of said corporation. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their business address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the manufacture, advertising, offering for sale, sale and distribution of tents, tarpaulins and other canvas products to retailers for resale to the public.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, said products, when sold, to be shipped from their place of business in the State of Kansas to retailers thereof located in various States of the United States and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondents, for the purpose of inducing the purchase of their products, have engaged in the practice of using fictitious prices in connection therewith by the following method and means:

By distributing, or causing to be distributed to retailers and others, catalogs which depict and describe their aforesaid products and contain a stated price for each.

In the manner aforesaid respondents thereby represent, directly or indirectly, that the amounts shown are respondents' bona fide estimate of the actual retail prices of said products in respondents' trade area and that they do not appreciably exceed the highest prices at which substantial sales of said products are made at retail in said trade area.

In truth and in fact said amounts shown are not respondents' bona fide estimate of the actual retail prices of said products in respondents' trade area and they appreciably exceed the highest prices at which substantial sales of said products are made at retail in said trade area.

Therefore, the statements and representations set forth above are false, misleading and deceptive.

PAR. 5. By the aforesaid acts and practices, respondents place in the hands of retailers the means and instrumentalities by and through which they may mislead the public as to the usual and regular retail price of said products.

PAR. 6. In the course and conduct of their business and at all times mentioned herein, respondents have been engaged in substantial competition, in commerce, with corporations, firms and individuals in the sale of products of the same general kind and nature as those sold by respondents.

PAR. 7. The use by the respondents of the aforesaid false, mis-

leading and deceptive statements, representations and practices, has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 8. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Deceptive Practices proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the respondents 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 respondents have violated the Federal Trade Commission Act, 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 Topeka Tent and Awning Company, Inc., is a corporation organized, existing and doing business under any by virtue of the laws of the State of Kansas, with its office and principal place of business located at 320 East Second Street, city of Topeka, State of Kansas.

Respondents Willis Anton and Willis Anton, Jr., are officers of said corporation and their address is the same as that of said corporation.

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

ORDER

It is ordered, That respondents Topeka Tent and Awning Company, Inc., a corporation, and its officers, and Willis Anton and Willis Anton, Jr., 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 advertising, offering for sale, sale, or distribution of tents, tarpaulins, or other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Advertising, disseminating or distributing any purported retail price unless (a) it is respondents' bona fide estimate of the actual retail price of the product in the area where respondent does business and (b) it does not appreciably exceed the highest price at which substantial sales of said product are made in said trade area.

2. Misrepresenting in any manner the prices at which respondents' merchandise is sold at retail.

3. Furnishing to others any means or instrumentalities whereby the purchasing public may be misled as to the retail prices of respondents' products.

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

IN THE MATTER OF

EUREKA TENT AND AWNING COMPANY, INC., ET AL.

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

Docket C-1127. Complaint, Oct. 14, 1966—Decision, Oct. 14, 1966

Consent order requiring a Binghamton, N.Y., manufacturer and distributor of tents, tarpaulins and other canvas products to cease making false pricing and savings representations and furnishing others the means to make such representations in the advertising of its merchandise.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Eureka Tent and Awning Company, Inc., a corporation, and Robert B. DeMartine, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Eureka Tent and Awning Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 625 Conklin Road, Binghamton, New York.

Respondent Robert B. DeMartine is the president of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices herein set forth. His office and principal place of business is located at 625 Conklin Road, Binghamton, New York.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the manufacture, advertising, offering for sale, sale and distribution of tents and tarpaulins and other merchandise to retailers for resale to the public.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, said products, when sold, to be shipped from their place of business in the State of New York to retailers thereof located in various States of the United States and maintain, and at all times mentioned herein

have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondents, for the purpose of inducing the purchase of their products, have engaged in the practice of using fictitious prices in connection therewith by the following methods and means:

By distributing, or causing to be distributed to retailers and others, catalogs which depict and describe their aforesaid products and contain a stated price for each.

In the manner aforesaid respondents thereby represent, directly or indirectly, that the amounts shown are respondents' bona fide estimate of the actual retail prices of said products in respondents' trade area and that they do not appreciably exceed the highest prices at which substantial sales of said products are made at retail in said trade area.

In truth and in fact said amounts shown are not respondents' bona fide estimate of the actual retail prices of said products in respondents' trade areas and they appreciably exceed the highest prices at which substantial sales of said products are made at retail in said trade area.

Therefore, the statements and representations set forth above are false, misleading and deceptive.

PAR. 5. By the aforesaid acts and practices, respondents place in the hands of retailers the means and instrumentalities by and through which they may mislead the public as to the usual and regular retail price of said products.

PAR. 6. In the course and conduct of their business and at all times mentioned herein, respondents have been engaged in substantial competition, in commerce, with corporations, firms and individuals in the sale of products of the same general kind and nature as those sold by respondents.

PAR. 7. The use by the respondents of the aforesaid false, misleading and deceptive statements, representations practices, has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 8. The aforesaid acts and practices of respondents', as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now

constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Deceptive Practices proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the respondents 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 respondents have violated the Federal Trade Commission Act, 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 Eureka Tent and Awning Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 625 Conklin Road, Binghamton, New York.

Respondent Robert B. DeMartine is an officer of said corporation and his address is the same as that of said corporation.

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

ORDER

It is ordered, That respondents, Eureka Tent and Awning Company, Inc., a corporation, and its officers, and Robert B. DeMartine, individually and as an officer of said corporation, and re-

spondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale, or distribution of tents, tarpaulins, or other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Advertising, disseminating or distributing any purported retail price unless (a) it is respondents' bona fide estimate of the actual retail price of the product in the area where respondents do business and (b) it does not appreciably exceed the highest price at which substantial sales of said product are made in said trade area.

2. Misrepresenting in any manner the prices at which respondents' merchandise is sold at retail.

3. Furnishing to others any means or instrumentalities whereby the purchasing public may be misled as to the retail prices of respondents' products.

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

IN THE MATTER OF

POWERS & COMPANY, INC., ET AL.

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

Docket C-1128. Complaint, Oct. 14, 1966—Decision, Oct. 14, 1966

Consent order requiring a Philadelphia, Pa., manufacturer and distributor of tents, tarpaulins and other canvas products to cease making false pricing and savings representations and furnishing others the means to make such representations in the advertising of its merchandise.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Powers & Company, Inc., a corporation, and Mabel C. Powers, Edwin T.

Oscarson and Jack Loman, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Powers & Company, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located at 5929 Woodland Drive, Philadelphia, Pennsylvania.

Respondents Mabel C. Powers, Edwin T. Oscarson and Jack Loman are officers of said corporation. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. The business address of respondents Mabel C. Powers and Jack Loman is the same as that of the corporate respondent. The business address of respondent Edwin T. Oscarson is 7310 Central Avenue, River Forest, Illinois.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the manufacture, advertising, offering for sale, sale, and distribution of tents, tarpaulins, and other canvas products to retailers for resale to the public.

PAR. 3. In the course and conduct of their business, respondents cause, and for some time last past have caused, said products, when sold, to be shipped from their place of business in the State of Pennsylvania to retailers thereof located in various States of the United States and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondents, for the purpose of inducing the purchase of its tent and tarpaulin products, have engaged in the practice of using fictitious prices in connection therewith by the following method and means:

By distributing, or causing to be distributed to retailers and others, catalogs which depict and describe its aforesaid products and contain a stated price for each.

In the manner aforesaid respondent thereby represent, directly or indirectly, that the amounts shown are respondents' bona fide estimate of the actual retail prices of said products in respondents' trade area and that they do not appreciably exceed the

highest prices at which substantial sales of said products are made at retail in said trade area.

In truth and in fact said amounts shown are not respondents' bona fide estimate of the actual retail prices of said products in respondents' trade area and they appreciably exceed the highest prices at which substantial sales of said products are made at retail in said trade area.

Therefore, the statements and representations set forth above are false, misleading and deceptive.

PAR. 5. By the aforesaid acts and practices, respondents place in the hands of retailers the means and instrumentalities by and through which they may mislead the public as to the usual and regular retail price of said products.

PAR. 6. In the course and conduct of their business and at all times mentioned herein, respondents have been engaged in substantial competition, in commerce, with corporations, firms and individuals in the sale of products of the same general kind and nature as those sold by respondents.

PAR. 7. The use by the respondents of the aforesaid false, misleading and deceptive statements, representations and practices, has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 8. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Deceptive Practices proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents and counsel for the Commission having there-

after executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the respondents 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 respondents have violated the Federal Trade Commission Act, 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 Powers & Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located 5929 Woodland Avenue, Philadelphia, Pennsylvania.

Respondents Mabel C. Powers, Edwin T. Oscarson and Jack Loman are officers of said corporation. The address of Mabel C. Powers and Jack Loman is the same as that of said corporation. The address of Edwin T. Oscarson is 7310 Central Avenue, River Forest, Illinois.

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 Powers & Company, Inc., a corporation, and its officers, and Mabel C. Powers, Edwin T. Oscarson and Jack Loman, 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 advertising, offering for sale, sale, or distribution of tents, tarpaulins, or other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Advertising, disseminating or distributing any purported retail price unless (a) it is respondents' bona fide estimate of the actual retail price of the product in the area where respondents do business, and (b) it does not appreciа-

bly exceed the highest price at which substantial sales of said product are made in said trade area.

2. Misrepresenting in any manner the prices at which respondents' merchandise is sold at retail.

3. Furnishing to others any means or instrumentalities whereby the purchasing public may be misled as to the retail prices of respondents' products.

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

IN THE MATTER OF

CAMEL MANUFACTURING COMPANY ET AL.

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

Docket C-1129. Complaint, Oct. 14, 1966—Decision, Oct. 14, 1966

Consent order requiring a Knoxville, Tenn., manufacturer and distributor of tents, tarpaulins and other canvas products to cease making false pricing and savings representations and furnishing others the means to make such representations in the advertising of its merchandise.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Camel Manufacturing Company, a corporation, and Gene B. Laxer and Benjamin D. Bower, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Camel Manufacturing Company, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Tennessee, with its principal office and place of business located at 329 South Central Street, Knoxville, Tennessee.

PAR 2. Respondents Gene B. Laxer and Benjamin D. Bower are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.

PAR. 3. Respondents are now, and for some time last past have been, engaged in the manufacture, advertising, offering for sale, sale and distribution of tents and tarpaulins and other canvas products to retailers for resale to the public.

PAR. 4. In the course and conduct of their business, respondents now cause, and for some time last past have caused, said products when sold, to be shipped from their place of business in the State of Tennessee to retailers thereof located in various States of the United States and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. Respondents, for the purpose of inducing the purchase of their products, have engaged in the practice of using fictitious prices in connection therewith by the following method and means:

By distributing, or causing to be distributed to retailers and others, catalogs which depict and describe their aforesaid products and contain a stated price for each.

In the manner aforesaid respondents thereby represent, directly or indirectly, that the amounts shown are respondents' bona fide estimate of the actual retail prices of said products in respondents' trade area and that they do not appreciably exceed the highest prices at which substantial sales of said products are made at retail in said trade area.

In truth and in fact said amounts shown are not respondents' bona fide estimate of the actual retail prices of said products in respondents' trade area and they appreciably exceed the highest prices at which substantial sales of said products are made at retail in said trade area.

Therefore, the statements and representations set forth above are false, misleading and deceptive.

PAR. 6. By the aforesaid acts and practices, respondents place in the hands of retailers the means and instrumentalities by and through which they may mislead the public as to the usual and regular retail price of said products.

PAR. 7. In the course and conduct of their business and at all

times mentioned herein, respondents have been engaged in substantial competition, in commerce, with corporations, firms and individuals in the sale of products of the same general kind and nature as those sold by respondents.

PAR. 8. The use by the respondents of the aforesaid false, misleading and deceptive statements, representations and practices, has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 9. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Deceptive Practices proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the respondents 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 respondents have violated the Federal Trade Commission Act, 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 Camel Manufacturing Company is a corpora-

tion organized, existing and doing business under and by virtue of the laws of the State of Tennessee, with its principal office and place of business located at 329 South Central Street, Knoxville, Tennessee.

Respondents Gene B. Laxer and Benjamin D. Bower are officers of said corporation, and their address is the same as that of said corporation.

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

ORDER

It is ordered, That respondents Camel Manufacturing Company, a corporation, and its officers, and Gene B. Laxer and Benjamin D. Bower, 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 advertising, offering for sale, sale, or distribution of tents, tarpaulins, or other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Advertising, disseminating or distributing any purported retail price unless (a) it is respondents' bona fide estimate of the actual retail price of the product in the area where respondents do business and (b) it does not appreciably exceed the highest price at which substantial sales of said product are made in said trade area.

2. Misrepresenting in any manner the prices at which respondents' merchandise is sold at retail.

3. Furnishing to others any means or instrumentalities whereby the purchasing public may be misled as to the retail prices of respondents' products.

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

Complaint

IN THE MATTER OF

MODERN BUILDERS, INC., ET AL.

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

Docket C-1130. Complaint, Oct. 14, 1966—Decision, Oct. 14, 1966

Consent order requiring a Winter Park, Fla., home improvement company to cease using deceptive representations to sell its residential aluminum siding and other products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe Modern Builders, Inc., a corporation, and James W. Glasser, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Modern Builders, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida. The principal office and place of business of Modern Builders, Inc., is located at 686 Formosa Drive, in the city of Winter Park, State of Flordia.

Respondent James W. Glasser is an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth. His business address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution and installation of various items of home improvements, including aluminum siding to the purchasing public.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said products, when sold, to be shipped from their place of business in the State of Florida to purchasers thereof located in various other States of the United States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade

in said products, in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of their products, in newspaper advertisements, in direct mail circulars and in oral sales solicitations by their representatives or salesmen, respondents now represent, and have represented, directly or by implication, that:

1. Homes of prospective purchasers have been specially selected as model homes for the installation of respondents' products, after installation such homes would be used for demonstration and advertising purposes by respondents; and, as a result of allowing their homes to be used as models, purchasers would receive allowances, discounts or commissions.

2. Respondents are connected or affiliated with the Kaiser Aluminum and Chemical Corporation.

3. Respondents' products are applied by factory trained personnel.

4. Respondents' products will last a lifetime and will not require repainting or repair for the life of the structure on which it is applied.

5. Respondents' products are "unconditionally guaranteed" in every respect without condition or limitation for an unlimited period of time.

6. Prospective purchasers would receive free merchandise or gifts for permitting a representative of respondents to call on them and estimate the cost of improvements to their homes.

PAR. 5. In truth and in fact:

1. Homes of prospective purchasers are not specially selected as model homes for the installation of respondents' products; after installation such homes are not used for demonstration and advertising purposes by respondents; and purchasers, as a result of agreeing to allow their homes to be used as models, are not granted reduced prices, nor do they receive allowances, discounts or commissions.

2. Respondents are not connected or affiliated with Kaiser Aluminum and Chemical Corporation.

3. Products sold by respondents are not applied by factory trained personnel.

4. Respondents' products will not last a lifetime and will require repainting and repair.

5. Respondents' products are not unconditionally guaranteed

in every respect without conditions or limitations, for an unlimited period of time. Such guarantee as may have been provided was subject to numerous terms, conditions and limitations, and failed to set forth the nature and extent of the guarantee, the identity of the guarantor and the manner in which the guarantor would perform thereunder.

6. Respondents do not give gifts or free merchandise to prospective purchasers in accordance with their promises or offers, but use such offers and promises as a means of obtaining names of prospective purchasers of their products.

Therefore, the statements and representations set forth in Paragraph Four hereof are false, misleading and deceptive.

PAR. 6. In the conduct of their business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of various items of home improvements, including aluminum siding of the same general kind and nature as sold by respondents.

PAR. 7. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 8. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondents of all the jurisdictional facts set forth in the complaint to issue herein, a statement that the signing of said

agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as set forth in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Modern Builders, Inc., is a corporation organized, 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 686 Formosa Drive, in the city of Winter Park, State of Florida.

Respondent James W. Glasser is an officer of said corporation and his address is the same as that of said corporation.

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

ORDER

It is ordered, That respondents Modern Builders, Inc., a corporation, and its officers, and James W. Glasser, 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 advertising, offering for sale, sale and distribution of residential aluminum siding or other products 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) The home of any of respondents' customers, or prospective customers, has been selected to be used as a model home, or otherwise, for advertising purposes;

(2) Any allowance, discount or commission is granted by respondents to purchasers in return for permitting the premises on which respondents' products are installed to be used for model homes or demonstration purposes;

(3) Respondents are connected or affiliated with Kaiser Aluminum and Chemical Corporation, or misrepresenting in any manner the identity of the manufacturer or the source of any of respondents' products;

(4) The products sold by respondents will be installed by factory trained personnel: *Provided, however,* That it shall

be a defense in any enforcement proceeding instituted hereunder for respondents to establish that said personnel have actually been trained at the factory of the manufacturer of the product;

(5) The products sold by respondents will last a lifetime or will never require painting or maintenance, for the life of the structure on which applied, or misrepresenting in any manner the efficacy, durability or efficiency of respondents' products;

(6) Any of respondents' products or installations are guaranteed unless the nature and extent of the guarantee, the identity of the guarantor, and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed;

(7) Persons will receive a gift of a specified article of merchandise, or anything of value: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that the item referred to as a gift was in fact delivered to each eligible person.

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

IN THE MATTER OF

DABROL PRODUCTS CORPORATION ET AL.

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

Docket 5656. Complaint, Oct. 25, 1949—Decision, Oct. 17, 1966

Order modifying a cease and desist order dated December 29, 1950, 47 F.T.C. 791, requiring a processor of lubricating oil to cease advertising and selling its product without disclosing that it is re-refined or reprocessed, by ordering such disclosure be made on the front panel or panels of the container.

ORDER REOPENING PROCEEDING AND MODIFYING ORDER TO CEASE AND DESIST

The Commission on December 29, 1950 [47 F.T.C. 791], having issued its order to cease and desist against respondents herein providing at paragraphs 4 and 5 as follows: