

Complaint

76 F.T.C.

## IN THE MATTER OF

## AMERICAN DENTAL LABORATORIES, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE  
FEDERAL TRADE COMMISSION ACT*Docket C-1588. Complaint, Sept. 10, 1969—Decision, Sept. 10, 1969*

Consent order requiring Affton, Mo., distributors of toothbrush vending machines and supplies to cease misrepresenting that they will furnish profitable locations to purchasers of their vending machines, that they will train such purchasers, that no soliciting will be required, that they are connected with the du Pont Company or any motel chain, and to cease using the word "Laboratories" in their trade name which misrepresents that they operate a laboratory.

## 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 American Dental Laboratories, Inc., a corporation, and Ed Zenthoefer and Ray Kowalskey, 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 American Dental Laboratories, Inc., 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 9722 Reavis Park Drive, in the city of Affton, State of Missouri.

Respondents Ed Zenthoefer and Ray Kowalskey 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 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 toothbrush vending machines, disposable toothbrushes and supplies used and dispensed thereby to purchasers for installation in commercial establishments such as office buildings, hotels, motels, and restaurants for resale to the public.

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused, their products, when sold, to be transported from their place of business located in the State of Missouri, or from the places of business of their suppliers, 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, the respondents have made, and are now making, numerous statements and representations in advertisements inserted in newspapers and promotional material with respect to earnings, and business opportunities that can be derived by the purchase of respondents' products.

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

applications now being accepted for  
PROFITABLE  
DUPONT NEW DUPONT  
FRANCHISE OPPORTUNITY  
MEN or WOMEN

A revolutionary new product developed by DuPont for the mass market is being sold exclusively through automatic merchandising units. This may be exactly the opportunity you've been looking for to provide a profitable, secure future for your family while you build independence.

- \* No selling—no experience
- \* Dignified work—full or part time
- \* We furnish locations!
- \* Invest as little as \$998!
- \* Investment quickly Returned

Write today for complete details. Of course there is no obligation, but we feel obligated to assign franchises to the first qualified applicants. So don't delay. Write Box D476 Daily Oklahoman for personal interview. Give telephone number in reply.

#### PART TIME—FULL TIME

If you have two hours or more a week you can service coin-operated dispensers offering the new DU PONT DENTIFRICE COATED NYLON BRISTLE TOOTHBRUSHES. (Just wet and brush \*\*\* no toothpaste necessary). Going into motels, office buildings, restaurants, etc. No selling—no competition. Only product of this type on market. We assist in setting up complete operation. Opportunity to earn in excess of \$15,000 yearly. Minimum investment \$600. Write Box 25, Tribune-Star. Give telephone number in reply.

Complaint

76 F.T.C.

## PART TIME BUSINESS

If you have 8 to 10 hours a week available you can own a business of your own. Service DU PONT NYLON DISPOSABLE TOOTHBRUSH DISPENSERS on location. No competition. Only product of this type on the market. Your profit 14¢ on every toothbrush unit you replace in dispensers. No selling necessary. We secure locations for you. 6 sales daily per machine on a 20-machine route possible to earn \$100.80 a week. \$500 to \$1,000 inventory investment required. Write M. Finn. DU PONT—Executive House, 4466 W. Pine St., St. Louis, Missouri 63108.

PAR. 5. By and through the use of the above quoted statements and representations, and others of similar import and meaning but not expressly set out herein, separately and in connection with the oral statements and representations of their salesmen and representatives, the respondents have represented, and are now representing, directly or by implication that:

1. Respondents furnish to purchasers of their vending machines satisfactory or profitable sales producing locations for the placing of said vending machines, such as leading restaurants, hotels, motels, cocktail lounges, office buildings and bus terminals.
2. Purchasers investing money in said vending machines and disposable toothbrushes may reasonably expect to earn net profits of approximately \$15,000 per year and that said investment may reasonably be expected to be returned out of net profits in one year or less.
3. The purchasers of said machines will be trained by the respondents as to the operation of the machines and the methods to be used in servicing them.
4. No selling or soliciting will be required.
5. The machines purchased by respondents' customers will average seven vends each per day.
6. Respondents' salesmen are representatives of the du Pont Company.
7. Respondents have agreements with Holiday Inns of America and other large motel and restaurant chains whereby these companies will accept respondents' machines in any of their motels or restaurants.
8. Respondents grant exclusive sales territories in which customers may place their toothbrush vending machines.
9. Respondents will deliver their vending machines and supplies within 30 days after the customer signs the contract.
10. Respondents or any other organization are planning to place national advertising relating to the vending machines or

other supplies, or that respondents will furnish other advertising and promotional assistance.

PAR. 6. In truth and in fact:

1. Respondents do not obtain satisfactory or profitable sales producing locations such as restaurants, hotels, motels, cocktail lounges, office buildings and bus terminals for the placing of the vending machines purchased from them, but such locations as may be secured by respondents are usually undesirable, unsuitable and unprofitable.
2. Purchasers who have invested money in the purchase of said vending machines and supplies do not earn profits approximating \$15,000 per year and do not earn sufficient net profits for the return of the investment in one year or less, but on the contrary, in most instances, persons purchasing said vending machines and supplies make little or no profit from the operation of the machines.
3. Respondents do not train the purchasers of the vending machines in the operation of the machines or the method to be used in servicing the vending machines where installed.
4. The purchasers of respondents' machines are required to do selling and soliciting, since it is frequently necessary to place machines in other locations because of the undesirable, unsuitable and unprofitable nature of the locations selected by the respondents or for other reasons.
5. Vending machines sold to purchasers by respondents do not average as many as seven vends per machine, per day, but on the contrary, few, if any, of said vending machines sold to purchasers by respondents averaged as much as one vend per day, per machine.
6. Since August 1967 neither respondents nor their representatives have had any agreement or any other connection or relationship with the du Pont Company, who, prior to that time, sold to respondents the disposable toothbrush for said vending machines.
7. Respondents do not have an agreement with Holiday Inns of America, or any other motel or restaurant chain whereby individual motels and restaurants will permit respondents' vending machines to be installed on their premises.
8. Respondents do not grant exclusive sales territories to their customers but, in fact sell the machines to any person in any area who has the required investment to pay for respondents' products.

Complaint

76 F.T.C.

9. Respondents do not deliver their machines to customers within 30 days of the time the contract is signed, but often take up to six months or more before such delivery is accomplished.

10. Neither respondents nor any other company has placed or is planning to place any national advertising concerning respondents' vending machines or products. Nor do respondents furnish any other advertising or promotional assistance.

PAR. 7. Through the use of the word "Laboratories" as a part of respondents' trade name, respondents represent that they operate a laboratory or are engaged in research in connection with their business. In truth and in fact, respondents do not operate a laboratory and do no research in connection with their business. Therefore, the aforesaid statement and representation is false, misleading and deceptive.

PAR. 8. In the course and conduct of their business, and at all times mentioned herein, respondents have been and now are in substantial competition, in commerce, with corporations, firms and individuals engaged in the sale of vending machines of the same general kind and nature as that sold by respondents.

PAR. 9. The use by respondents of the aforesaid false, misleading and deceptive statements and 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. 10. 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 respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent American Dental Laboratories, Inc., 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 9722 Reavis Park Drive, in the city of Affton, State of Missouri.

Respondents Ed Zenthoefer and Ray Kowalskey are officers of said corporation and their principal office and place of business is located at the above stated address.

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 American Dental Laboratories, Inc., a corporation, and its officers, and Ed Zenthoefer and Ray Kowalskey, 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 vending machines and vending machine supplies, or any other merchandise,

Decision and Order

76 F.T.C.

in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication:

1. That respondents will furnish satisfactory or profitable sales producing locations or misrepresenting, in any manner, the sales potential or character of the locations in which respondents place their vending machines and products at the time of the purchase of the machines.
2. That purchasers of respondents' products will earn any stated amount of gross or net profits or other earnings.
3. The past earnings of respondents' purchasers: *Provided, however,* It shall be a defense in any enforcement proceeding instituted hereunder to establish that the past earnings represented are those of substantial number of purchasers and accurately reflect the average earnings of these purchasers under circumstances similar to those of the purchaser or prospective purchaser to whom the representation is made.
4. That the net profits from the operation of said vending machines will be sufficient to return the investment of the purchaser within one year or misrepresenting any other period of time in which the net profits from the operation of said vending machines will be sufficient to return the investment of the purchaser.
5. That purchasers of respondents' vending machines will be trained by the respondents as to the operation of the machines or the methods to be used in servicing the locations where installed.
6. That no selling or soliciting will be required.
7. That respondents' vending machines will average as many as seven vends per day, per machine, or misrepresenting in any manner, respondents' machines average.
8. That respondents or their representatives are connected with the du Pont Company or otherwise misrepresenting respondents' relationship with du Pont or any other company or the source of their merchandise.

## Decision and Order

9. That respondents have an agreement with Holiday Inns of America, or any other motel or restaurant chain, to accept respondents' vending machines, or otherwise misrepresenting the class or type of locations available to customers of respondents.

10. That respondents grant exclusive sales territories to their customers: *Provided, however,* It shall be a defense in any enforcement proceeding instituted hereunder to establish that exclusive sales territories are in fact granted by respondents.

11. That respondents' machines or other merchandise will be delivered within thirty (30) days after the contract is signed, or misrepresenting in any manner the amount of time that will transpire between the time the contract is signed and the time the merchandise is delivered.

12. That respondents, or any other organization, are planning to place national advertising respecting the vending machines or other merchandise respondents sell, or misrepresenting in any manner the promotional or advertising assistance respondents will provide for their customers.

B. Using the word "Laboratories" as part of any business name or representing in any other manner, directly or by implication, that a laboratory is operated by or for the said business, or that the said business differs in any manner from its true nature.

*It is further ordered,* That respondents deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the sale of respondents' products or services, and secure from each such salesman or other person a signed statement acknowledging receipt of said order.

*It is further ordered,* That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

*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.

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Complaint

76 F.T.C.

## IN THE MATTER OF

## CURTISS-WRIGHT CORPORATION

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

*Docket 8703. Complaint, Aug. 8, 1966—Decision, Sept. 12, 1969*

Order dismissing a complaint which charged a Wood-Ridge, N.J., distributor of aircraft engine parts with monopolizing the sale of its products and attempting to eliminate competition in the overhaul of its engines for the reason that jet engines are replacing reciprocating piston driven engines in both the civilian and military markets.

## 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 Curtiss-Wright Corporation, sometimes hereinafter referred to as respondent or Curtiss-Wright, has violated the provisions of Section 5 of the Federal Trade Commission Act (15 U.S.C. Section 45), and it appearing to the Commission that a proceeding by it in respect thereto would be in the public interest, hereby issues its complaint, stating its charges in this respect as follows:

PARAGRAPH 1. Respondent Curtiss-Wright is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its office and principal place of business at 304 Valley Boulevard, Wood-Ridge, New Jersey.

PAR. 2. (a) Curtiss-Wright is engaged in the sale of various products some of which it produces and some of which are produced for it by others. Respondent's stock is listed on and traded over the New York Stock Exchange and its business is substantial with sales, including those of subsidiaries, in excess of \$200,000,000 for each of the years from 1960 to 1963 inclusive.

(b) Included among the products sold and distributed by Curtiss-Wright are aircraft engines and parts therefor which it sells or has sold to the United States Government for use in military aircraft, and to others, including commercial airlines, both domestic and foreign. Parts for aircraft engines are also sold and have been sold by respondent to parties with which it enters into agreements whereunder such parties are designated as "Approved Overhaul Bases" for specified Curtiss-Wright engines, and

382

## Complaint

under the terms of which respondent agrees, *inter alia*, to distribute to such bases service manuals and bulletins and to sell thereto spare parts for use in the repair or overhaul of Curtiss-Wright engines. In addition to entering into agreements whereby it appoints others as "Approved Overhaul Bases" for its engines, Curtiss-Wright itself also engages and has engaged in the overhaul or repair of such engines for others who pay respondent for services it renders in this connection.

(c) Sales of aircraft engine parts together with payments to respondent for services it renders itself in connection with the overhaul or repair of such engines aggregated more than half of total dollar sales for each of the years 1960 through 1963. Of this portion of total sales, however, sales of engine parts represented the great bulk thereof in each of such years, substantially exceeding \$100,000,000 in each of three of the four years.

PAR. 3. In the course and conduct of its business of selling and distributing parts for Curtiss-Wright aircraft engines, respondent ships, has shipped or has caused such parts to be shipped from its plant or plants in New Jersey or other States to purchasers of such parts with places of business in States other than those where shipment thereof originates or originated. Similarly, respondent after rendering such services as it performs in connection with the repair or overhaul of Curtiss-Wright engines for others, ships, has shipped or has caused such engines to be shipped from its plant or plants in New Jersey, or other States, where such services were rendered, to purchasers of such services with places of business in States other than those where shipment of such engines originated. Respondent thus is and has been engaged in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondent, in the course and conduct of selling and distributing parts for Curtiss-Wright engines and rendering service in connection with the overhaul or repair of such engines in commerce, is and has been engaged in competition with others in the sale and distribution of parts for such engines and in the rendition of services in connection with the overhaul or repair thereof, except to the extent that actual or potential competition has been injured, eliminated or prevented by the acts and practices herein-after alleged.

PAR. 5. (a) Curtiss-Wright holds or owns, either directly or indirectly, patents or patent rights upon some of the aircraft engine parts it sells and has sold. As to many other engine parts,

Complaint

76 F.T.C.

respondent asserts or purports to assert proprietary rights stemming from contributions it claims to have made in the development or production of such parts.

(b) Many of the engine parts distributed by Curtiss-Wright are produced for and sold to it by others. As to many, most of all of such parts so produced, respondent enters into agreements with its vendors, utilizes purchase order forms, and imposes legends claiming proprietary rights upon specifications or drawings furnished to such vendors, whereby the latter are restricted from selling parts produced for Curtiss-Wright, or providing information furnished by the latter as to specifications for such parts, to anyone else.

(c) Parts of aircraft engines produced by one manufacturer are not interchangeable with corresponding parts of engines produced by another manufacturer, *e.g.*, a Curtiss-Wright crankshaft could not be installed in a Rolls-Royce engine or vice versa. Similarly, it is economically impractical, if not technically impossible, where an engine produced by one manufacturer has been installed in an aircraft to subsequently substitute therefor an engine produced by another manufacturer.

(d) Because of the absence of interchangeability of aircraft engines and parts therefor, because of the patents, patent rights, and proprietary rights held, owned, asserted or claimed by Curtiss-Wright, and because of the restrictions respondent imposes upon vendors from which it obtains many of the parts for its aircraft engines, Curtiss-Wright is the sole source of supply for most of such engine parts. Thus, those who own or operate aircraft equipped with Curtiss-Wright engines must generally turn to respondent when they seek to purchase parts for the repair or overhaul of such engines.

PAR. 6. Respondent has attempted to monopolize, has monopolized and is monopolizing the sale and distribution of parts for aircraft engines it sells and distributes and has sold and distributed. As part and parcel and in furtherance of such attempt to monopolize and monopolization, respondent has engaged in, or pursued various acts or practices. Included among and illustrative of such acts or practices, although not necessarily limited thereto, were the following:

(a) Selling or offering to sell engine parts at unreasonably low prices approaching or below the cost of production and distribution thereof for the purpose or with the effect of eliminating competition respondent encountered therein.

382

## Complaint

(b) Subsidizing such low prices by raising prices or charging higher prices for parts as to which respondent encountered little or no competition.

(c) Soliciting customers or potential customers for engine parts to agree to use only parts obtained from Curtiss-Wright or at least to endorse the latter's philosophy that only such parts should be employed in the repair or overhaul of its engines; threatening cancellation of engine parts service adjustment policies extended to such customers if they did not so agree or endorse such philosophy; policing or attempting to police through field representatives the use of any parts obtained through any source other than Curtiss-Wright and attempting to discourage the use of such parts; and representing to customers or potential customers for engine parts that parts obtained from any source other than Curtiss-Wright were "bogus" or otherwise disparaging or attempting to discourage the use of such parts notwithstanding that certification of suitability for the projected use thereof in the form of "Parts Manufacturer Approval" had been or may have been extended to some of such parts by the Federal Aviation Agency or the Civil Aeronautics Administration.

(d) Requiring "Approved Overhaul Bases" to utilize engine parts obtained only from Curtiss-Wright and taking or proposing to take disciplinary action against a base which attempted to obtain parts from another source.

PAR. 7. (a) In addition to monopolizing and attempting to monopolize the sale and distribution of parts for its aircraft engines, respondent has attempted, through misuse and abuse of its monopolistic and dominant position in the sale and distribution of such parts, to eliminate competition it encountered in the overhaul or repair of Curtiss-Wright engines by the method or means, *inter alia*, as hereinafter more particularly described and alleged.

(b) On or about June 8, 1961, the United States Government through the U.S. Army Transportation Material Command issued a request for proposals for the overhaul of Curtiss-Wright engines. Thereafter, in response to such request, proposals were submitted by Curtiss-Wright, Aerodex, Inc., and American Airmotive Corporation, among others. The proposals of both Aerodex, Inc., and American Airmotive were lower than that submitted by Curtiss-Wright either upon the basis of parts being furnished by the Government or by the contractor at commercial list less 25 percent, with Aerodex being the lowest bidder.

Complaint

76 F.T.C.

(c) On or about September 15, 1961, Curtiss-Wright advised the Government that Aerodex and American Airmotive would be sold only at list price although theretofore it had been extending a 25 percent discount from commercial list prices, at least to Aerodex. Curtiss-Wright confirmed this advice by wire of September 18, 1961.

(b) By communication of October 7, 1961, Curtiss-Wright advised the Government that no aircraft engine parts at all would be sold to Aerodex or American Airmotive.

(e) Curtiss-Wright so advised the Government as heretofore alleged in subparagraphs (c) and (d) for the purpose and with the intent of eliminating Aerodex and American Airmotive as competitors for the business of overhauling Curtiss-Wright engines for which a request for proposals was issued as alleged in subparagraph (b).

PAR. 8. The acts, practices and methods of competition engaged in, followed, pursued or adopted by Curtiss-Wright, as hereinbefore alleged, constitute unfair acts, practices and methods of competition, the capacity, tendency or effect of which has been, is now or may be to injure, eliminate or prevent competition between respondent and others engaged in the sale and distribution of parts for Curtiss-Wright aircraft engines and to injure, eliminate or prevent competition between respondent and others engaged in the business of overhauling or repairing Curtiss-Wright aircraft engines, all in derogation of the public interest and in violation of Section 5 of the Federal Trade Commission Act.

#### ORDER DISMISSING COMPLAINT

This is before the Commission upon the hearing examiner's certification, filed August 15, 1969, of complaint counsel's motion to dismiss the complaint, and respondent's answer supporting such motion.

Complaint counsel assert that the significant lines of commerce covered by the complaint relate to respondent's reciprocating aircraft engine parts and its overhauling activities with respect to reciprocating engines. It appears from an affidavit filed *in camera* by complaint counsel that jet engines have replaced most reciprocating engines used by the commercial airlines and that the military is in the process of replacing reciprocating engines as well. Complaint counsel suggest, because of such changes in the marketplace, that the complaint is no longer appropriate. In light of

382

## Order Dismissing Complaint

this and other circumstances which indicate a lack of public interest in pursuing the trial of this proceeding the Commission has determined that the complaint should be dismissed. Accordingly,

*It is ordered*, That the complaint in this proceeding be, and it hereby is, dismissed.

By the Commission, with Commissioner Elman concurring in the result.

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IN THE MATTER OF

## METOMIC MANUFACTURING CORPORATION, ET AL.

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

*Docket C-1589. Complaint, Sept. 15, 1969—Decision, Sept. 15, 1969*

Consent order requiring a Brooklyn, N.Y., manufacturer and distributor of electroplating kits to cease misrepresenting the quality or durability of the plating imparted by its process.

## 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 Metomic Manufacturing Corporation, a corporation, and Martin Zahler, individually and as an officer of said corporation, herein-after 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 Metomic Manufacturing Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 92 Brighton 11th Street, Brooklyn, New York. Respondent Martin Zahler, is the sole 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.

Complaint

76 F.T.C.

PAR. 2. Respondents are now, and for some time last past have been engaged in the manufacture, advertising, offering for sale and sale of electroplating kits 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 electroplating kits 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 in said product 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 electroplating kits, the respondents have made, and are now making, numerous statements and representations in promotional material with respect to the results to be achieved with their electroplating kits.

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

Professional Plating Results Obtained at Home for First Time.

YOU CAN DO YOUR OWN CHROMEPLATING PLUS 24 KT. GOLD PLATING.

YOU CAN NOW DO YOUR OWN REAL ELECTROPLATING \* \* \*

PAR. 5. By and through the use of the above-quoted statements and representations, and others of similar import and meaning but not expressly set out herein, the respondents have represented, and are now representing, directly or by implication, that:

1. Purchasers of said electroplating kits can achieve the same finish and durability as imparted by commercial electroplating methods.

2. Purchasers of such electroplating kits can impart a chrome plating to any other material through the use of said kits.

3. Said kits actually produce results through an electroplating process.

4. Purchasers of such kits will be able to plate such objects as automobile bumpers, washing machines or any other large object with the materials supplied in said kits.

PAR. 6. In truth and in fact:

1. Respondents' kits do not supply the same finish and durability as commercial electroplating methods but instead produce the thinnest possible plating.

387

## Complaint

2. Respondents' kits do not impart a chrome plating to any other material, but instead contain a "chrome-like" solution, comprised of a small amount of chrome, some nickel and a large amount of tin.

3. Respondents' kits do not actually produce results through an electroplating process, but instead produce a plating through an "electroless" process.

4. Respondents' kits do not plate such objects as automobile bumpers, washing machines or any other large object but instead contain only enough of each plating solution to plate small objects.

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

PAR. 7. In the course and conduct of their aforesaid business, and at all times mentioned herein, respondents have been, and now are, in substantial competition, in commerce, with corporations, firms and individuals in the sale of electroplating kits of the same general kind and nature as that sold by respondents.

PAR. 8. 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' product 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

Decision and Order

76 F.T.C.

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 respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Metomic Manufacturing Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 92 Brighton 11th Street, Brooklyn, New York.

Respondent Martin Zahler 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 respondent Metomic Manufacturing Corporation, a corporation, and its officers, and Martin Zahler, 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 electroplating kits, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that the coating produced by the use of said kits or components is

387

## Decision and Order

comparable in durability and other aspects to the finish imparted by commercial electroplating.

2. Representing, directly or by implication, that their kits or components are capable of imparting a chrome plating to any other material.

3. Representing, directly or by implication, that their kits or components produce results through an electroplating process.

4. Representing, directly or by implication, that their kits or components contain enough materials to completely plate such objects as automobile bumpers, washing machines or any other large object.

*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.

By the Commission, with Commissioner Elman dissenting.

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IN THE MATTER OF

SPIEGEL, INC.

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

*Docket 8708. Complaint, Sept. 7, 1966—Decision, Sept. 29, 1969*

Order modifying an earlier order dated July 15, 1968, 74 F.T.C. 185, which prohibited a Chicago Ill., catalog retailer from making fictitious pricing and savings claims, pursuant to a decision of the United States Court of Appeals, Seventh Circuit, dated June 11, 1969, 411 F. 2d 481, by deleting numbered Paragraph 3 from the original order.

## ORDER MODIFYING ORDER TO CEASE AND DESIST

Respondent, having filed in the United States Court of Appeals for the Seventh Circuit on October 2, 1968, a petition to review and set aside an order to cease and desist issued herein on July 15, 1968, and the Court having rendered its decision on June 11, 1969 [8 S. & D. 942], affirming the order to cease and desist, except for numbered Paragraph 3 of the order which it directed be eliminated:

*Now, therefore, it is hereby ordered,* That the aforesaid order

Order Modifying Order to Cease and Desist      76 F.T.C.  
to cease and desist be, and it hereby is, modified by deleting numbered Paragraph 3 of the order.

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

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IN THE MATTER OF  
NATIONAL DAIRY PRODUCTS CORPORATION

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

*Docket 8548. Complaint, Dec. 7, 1962—Decision, Oct. 2, 1969*

Order modifying a cease and desist order, dated June 28, 1967, 71 F.T.C. 1333, which prohibited a major food products distributor from discriminating in price among its customers, by limiting the prohibition, pursuant to a decision of the United States Court of Appeals, Seventh Circuit, 412 F. 2d 605, dated June 19, 1969, to the jam, jelly and preserve products of the respondent company's Kraft Foods Division.

ORDER MODIFYING ORDER TO CEASE AND DESIST

Respondent having filed in the United States Court of Appeals for the Seventh Circuit a petition to review and set aside the order to cease and desist issued herein on June 28, 1967 [71 F.T.C. 1333]; and the court on June 19, 1969 [8 S. & D. 948], having issued its opinion modifying and, as modified, affirming and enforcing said order to cease and desist; and the time allowed for filing a petition for certiorari having expired and no such petition having been filed;

*Now, therefore, it is hereby ordered,* That the aforesaid order of the Commission to cease and desist be, and it hereby is, modified in accordance with the said final decree of the court of appeals to read as follows:

*It is ordered,* That respondent National Dairy Products Corporation, a corporation, and its officers, representatives, agents and employees, directly or through any corporate device, in connection with the sale or offering for sale of jam, jelly and preserve prod-

392

## Order Modifying Order to Cease and Desist

ucts of its Kraft Foods Division, in commerce, as "commerce" is defined in the Clayton Act, do forthwith cease and desist from:

Discriminating, directly or indirectly, in the price of such products of like grade and quality by selling such products to any purchaser for resale at a price which is less than the price charged any other purchaser for resale at the same level of distribution when such lower price is either the result of a reduction from the regular list price of the products or is the result of a promotional offer involving a concession from regular list price: *Provided, however,* That in addition to the defenses set forth in Sections 2(a) and 2(b) of the statute it shall be a defense in any enforcement proceeding instituted hereunder for respondent (1) to establish that its lower price was the result of a promotional offer involving a price concession which does not undercut the lowest net price and/or the terms and conditions resulting from a promotional offer made to the purchaser receiving the lower price by any seller of a competitive product within the previous 12 months, or (2) to establish that such lower price does not undercut the lowest price concurrently offered generally throughout the same trading area by any other seller of a competitive product having a substantially smaller annual volume of sales of such products than respondent's annual volume of sales of the product on which the discriminatory price was granted.

*It is further ordered,* That respondent, National Dairy Products Corporation, shall, within thirty (30) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with the order to cease and desist set forth herein.

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Complaint

76 F.T.C.

## IN THE MATTER OF

EMPRESS STERLING CORPORATION, ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE  
FEDERAL TRADE COMMISSION ACT*Docket C-1590. Complaint, Oct. 6, 1969—Decision, Oct. 6, 1969*

Consent order requiring a Richmond, Va., marketer of cookware, tableware and other household products to cease misrepresenting that prospective customers are being called long distance, that its offering prices constitute a saving, that prospective purchasers have been specially selected or will receive any article free, making deceptive guarantee claims, inferring that its products are advertised nationally, and implying that it is connected with the publishers of the International Sunday School Lessons.

## 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 Empress Sterling Corporation, a corporation, and Ernest M. Bernstein, individually and as an officer of said corporation, herein-after 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. Empress Sterling Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia, with its principal office and place of business located at 120 South 6th Street, Richmond, Virginia, 23219.

Respondent Ernest M. Bernstein is an individual and 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 advertising, offering for sale, sale and distribution of various types of household products, including cookware, tableware, chinaware and books to the public.

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have

394

## Complaint

caused, their said products, when sold, to be shipped from their place of business in the State of Virginia 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 products, the respondents have made, and are now making, numerous statements and representations in advertisements placed in newspapers, in promotional material and in recorded telephone solicitations with respect to price, guarantees, value, customer selection, product advertisement, and other aspects of their products and the selling methods thereof.

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

LISTEN FOR YOUR PHONE TO RING! IT'S LONG DISTANCE! Empress Company of Richmond, Va. MAY CALL YOU THIS MONTH! Be a member of the Empress Long Distance Telephone Plan.

Your name was selected here today to receive a \$50 enrollment award in the Long Distance Telephone Club Plan on a 17-piece set of Regal Stainless Steel Waterless Cookware, or on a 60-piece set of William A. Rogers Silverplate knives, forks and spoons.

The set (cookware) is made to sell for \$149.95, but listen to this, your total cost is only two and a quarter a week, \$2.25 per week or \$99.95.

The set (silverware) normally sells for \$149.95 on a regular dinner party plan \*\*\*

There is no down payment, no c.o.d. no interest charges, no carrying charges, no service charges, no postage charges.

As a free gift we're going to send you a sugar shell, a butter spreader, a pierced tablespoon and cold meat serving fork \*\*\* and they are absolutely free \*\*\* As an added free gift, we're going to send you a beautiful hardwood chest for you to keep the silver in.

Anyone \*\*\* can put aside a few pennies a day for a set of silverplate which will last a lifetime. In fact, it is guaranteed to last a lifetime.

You've probably seen it advertised in Good Housekeeping, or one of the leading magazines. Now we'll answer your questions about it in just a moment, but first I want to tell you that we are sending you a 60-piece set of William A. Rogers silverplate. \*\*\*

It is the finest imported Bohemian china that money can buy. The name of the set is Royal Heiden Society china.

\*\*\* I want to tell you that you're going to save ten to twelve dollars a month on your food bill by having this set of cookware.

Complaint

76 F.T.C.

We have just made arrangements to cooperate with the International Sunday School Lessons and we are sending you a \*\*\* Bible. \*\*\*

As an added feature we will emboss your name in gold on the front of both books.

PAR. 5. By and through the use of the above-quoted statements and representations, and others of similar import and meaning but not expressly set out herein, the respondents have represented, and are now representing, directly or by implication:

1. That prospective purchasers are being called by respondents by long distance telephone from their place of business in Richmond, Virginia.
2. That prospective purchasers are afforded a discount or savings in the amount of \$50 from the price of \$149.95 at which either the 17 piece set of Regal Stainless Steel cookware or the 60 piece set of William A. Rogers silverplate has been openly and actively offered for sale for a reasonably substantial period of time, in good faith by respondents in the recent regular course of their business.
3. That prospective purchasers have been specially selected for enrollment in respondents' Long Distance Telephone Club Plan and by virtue thereof have won a prize or award.
4. That the price of \$149.95 for the set of cookware or the set of silverware referred to in Paragraph 2 hereof does not appreciably exceed the price at which substantial sales of each of said sets is being made in respondents' trade area.
5. That purchasers of respondents' products pay no interest, c.o.d., carrying, service, or postage charges.
6. That purchasers of respondents' silverware receive a sugar shell, butter spreader, tablespoon, fork and chest as additional items of merchandise free, as a gift and at no extra cost. (Other items are similarly offered with the purchase of cookware, books, etc.)
7. That respondents' products are unconditionally guaranteed for a lifetime.
8. That products sold by respondents are advertised in Good Housekeeping magazine and in leading national magazines.
9. That the Royal Heiden Society Bohemian china sold by respondents is the finest, that is, the best quality, imported Bohemian china that can be purchased in this country.

394

## Complaint

10. That users of respondents' stainless steel cookware will save \$10 to \$12 per month on food.

11. That respondents are cooperating with an organization called International Sunday School Lessons in the sale of a bible which will have purchasers' names embossed in gold on the cover.

PAR. 6. In truth and in fact:

1. Prospective purchasers in a substantial number of instances are not being called by respondents by long distance telephone from their place of business in Richmond, Virginia, but by respondents' representatives from local telephones.

2. The price of \$149.95 is not the price at which respondents have openly and actively offered said articles for sale, for a reasonably substantial period of time, in good faith, in the recent regular course of their business and purchasers are not afforded a saving of \$50 on the purchase of each set. Respondents' offer each of these sets to everyone at \$149.95 less \$50, hence \$99.95 is respondents' actual bona fide regular price and the represented saving of \$50 is therefore nonexistent.

3. Prospective purchasers have not been specially selected for enrollment in respondents' Long Distance Telephone Club Plan, nor have they won a prize or award. Their names are taken indiscriminately from telephone books. Furthermore, respondents' Long Distance Telephone Club Plan is not a club plan at all, but is merely a name used to add to the illusion that persons called are members of a select group.

4. The price of \$149.95 for the set of cookware or the set of silverware appreciably exceeds the price at which substantial sales of each of said sets is being made in respondents' trade area.

5. Purchasers of respondents' products pay interest, c.o.d., carrying service and postage charges. Such charges, when applicable, are included in the purchase price without being revealed to the purchaser.

6. Purchasers of respondents' products do not receive the aforesaid items of merchandise free as a gift or at no extra cost. The price of the purported gift is included in the price of the purchased product.

7. The guarantee of respondents' products is subject to significant limitations and conditions which are not disclosed in the advertising and said advertising does not designate the lifetime during which said guarantee applies.

Complaint

76 F.T.C.

8. Products sold by respondents are not advertised in Good Housekeeping or in other magazines.

9. The Royal Heiden Society Bohemian china is not the finest, that is, the best quality, imported Bohemian china that can be purchased in this country.

10. Users of respondents' stainless steel cookware will not save \$10 to \$12 per month, or any significant amount, on food.

11. The organization International Sunday School Lessons referred to by respondents in connection with the sale of the bible is fictitious; and the purchaser's name is not embossed in gold on the cover, but is printed on a tape which is attached to the cover.

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

PAR. 7. In the course and conduct of their aforesaid business, and at all times mentioned herein, respondents have been, and now are, in substantial competition, in commerce, with corporations, firms and individuals in the sale of household products of the same general kind and nature as that sold by respondents.

PAR. 8. 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. 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 respondents that the law has been violated as alleged in such complaint and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.84(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Empress Sterling Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia, with its principal office and place of business located at 120 South 6th Street, Richmond, Virginia, 23219.

Respondent Ernest M. Bernstein 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 the respondents, Empress Sterling Corporation, a corporation, and its officers, and Ernest M. Bernstein, 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 cookware, tableware, chinaware, books, or any other product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that persons called by local telephone are being called by long distance telephone.

Decision and Order

76 F.T.C.

2. Representing, directly or by implication, that any price amount is respondents' regular selling price for any item of merchandise or that purchasers save \$50 or any other amount from respondents' selling price unless the amount referred to as respondents' selling price is the price at which said item of merchandise has been openly and actively sold or offered for sale, for a reasonably substantial period of time, in good faith, by respondents in the recent regular course of business; or misrepresenting, in any manner, the price at which respondents' merchandise has been sold or offered for sale.

3. Falsely representing that savings are afforded purchasers or prospective purchasers; or misrepresenting, in any manner, the amount of savings available to purchasers or prospective purchasers.

4. Representing, directly or by implication, that the prospective purchaser has been specially selected for enrollment in a club or other organized group plan, or has won a prize or award; or misrepresenting, in any manner, the nature or purpose of a purchaser solicitation.

5. Representing, directly or by implication, that a price is the retail price of a product in respondents' trade area unless such price does not appreciably exceed the price at which substantial sales of said product are being made in said trade area.

6. Representing, directly or by implication, that purchasers of respondents' products will not have to pay any c.o.d., postage, interest, carrying or service charges.

7. Representing, directly or by implication, that any article of merchandise is being given free or as a gift, or without cost or charge, in connection with the purchase of other merchandise unless the stated price of the merchandise required to be purchased in order to obtain said article is the same or less than the customary and usual price at which such merchandise has been sold separately for a substantial period of time in the recent and regular course of business in the trade area in which the representation is made.

8. Representing, directly or by implication, that their products are guaranteed unless the nature, conditions 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; and where the guarantee extends for the "Life" or "Lifetime" or the like and relates to any life other than that of the original purchaser, the life referred to shall be clearly and conspicuously disclosed.

9. Representing, directly or by implication, that their products are advertised in Good Housekeeping magazine or in leading national magazines; or misrepresenting the manner or extent of their advertising.

10. Representing, directly or by implication, that their Royal Heiden Society Bohemian chinaware products are the finest, that is, the best quality imported Bohemian china that can be purchased in this country; or misrepresenting, in any manner, the quality or value of their products.

11. Representing, directly or by implication, that the user of respondents' stainless steel cookware products will save \$10 to \$12 per month from the purchaser's food purchasing bill; or falsely representing the savings which accrue to users of respondents' cookware products.

12. Representing, directly or by implication, that they have made any arrangement, or are working in cooperation with, an organization known as International Sunday School Lessons in the sale of their Bible products; or misrepresenting, in any manner, respondents' connections or affiliations with businesses or organizations.

13. Representing, directly or by implication, that they will emboss or print the purchaser's name in gold on the covers of their book products, when in fact the names are merely printed on an adhesive-backed tape which is affixed to the covers.

*It is further ordered,* That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

*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.

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Complaint

76 F.T.C.

## IN THE MATTER OF

## TOPS FURNITURE COMPANY, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE  
FEDERAL TRADE COMMISSION ACT*Docket C-1591. Complaint, Oct. 6, 1969—Decision, Oct. 6, 1969*

Consent order requiring a Washington, D.C., retailer of furniture and appliances to cease using unfair credit practices by failing to disclose to customers the legal import of its conditional sales contract, tendering any incomplete instrument for signature, failing to disclose the details of its "finance charge" system, and using debt collection forms which simulate legal documents.

## 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 Tops Furniture Company, Inc., a corporation, and Milton Mecklar, 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. Tops Furniture Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the District of Columbia, with its principal office and place of business located at 1001 H Street, NE., in Washington, D.C.

Respondent Milton Mecklar is an individual and 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 offering for sale, sale and distribution of furniture and appliances to the public. Respondents' customers are principally of the low income group and a large amount of respondents' sales to such customers are on credit.

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have

402

## Complaint

caused, their said products, when sold, to be shipped from their place of business in the District of Columbia to purchasers thereof located 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 prospective customers to enter, into contracts for the purchase of their furniture and appliances, respondents have engaged in the following unfair and deceptive acts and practices:

1. In a number of instances, respondents have had customers execute a conditional sales contract without informing the customers of the nature of the document and the legal import of their signing it.

2. In a number of instances, respondents have had customers execute conditional sales contracts which may have been incomplete since they did not, when executed, set forth financing or carrying charges.

3. In a number of instances, respondents did not inform customers that financing charges would be levied or added to the executed document.

4. In a number of instances, respondents have added financing charges to already executed sales contracts without the customer's knowledge.

5. In a number of instances, respondents did not provide customers with copies of the conditional sales contract which they have signed.

6. Respondents have employed an after-acquired property clause in their conditional sales agreement which would make all subsequent purchases from Tops subject to the previously executed security agreement.

7. Respondents have sent out a debt collection form which is deceptively similar to a process paper which might be issued by a court of law.

PAR. 5. In the course and conduct of their aforesaid business, and at all times mentioned herein, respondents have been, and now are, in substantial competition, in commerce, with corporations, firms and individuals in the sale of furniture and appliances of the same general kind and nature as those sold by respondents.

Complaint

76 F.T.C.

PAR. 6. The use by respondents of the aforesaid deceptive and unfair acts and practices has had, and now has, the capacity and tendency to mislead and deceive members of the purchasing public as to their rights and obligations and into the purchase of substantial quantities of respondents' products by reason of such deception; and 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 debtors into the erroneous and mistaken belief that such representations were, and are true, and into the payment of sums of money before their legal rights are ascertained by reason of said erroneous and mistaken belief.

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 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 the 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 alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having considered the agreement and having accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of 30 days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

402

## Decision and Order

1. Respondent Tops Furniture Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the District of Columbia, with its principal office and place of business located at 1001 H Street, NE., in Washington, D.C.

Respondent Milton Mecklar 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 Tops Furniture Company, Inc., a corporation, and its officers, and Milton Mecklar, 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 furniture, appliances or other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Tendering to any customer for his signature or inducing or permitting a customer to sign a conditional sale contract or any other credit instrument without informing the customer of the nature of the document and the legal import of signing it.

2. Tendering to any customer for his signature or inducing or permitting a customer to sign a conditional sale contract or any other credit instrument which is incomplete as to finance or carrying charges.

3. Failing to disclose orally and in writing to each customer who executes a retail installment contract, or who otherwise purchases merchandise or services from respondents on credit, before such customer obligates himself to make any such credit purchase, all of the following items:

(a) The cash price of the merchandise or service purchased.

(b) The sum of any amounts credited as downpayment (including any trade-in).

(c) The difference between the amount referred to in paragraph (a) and the amount referred to in paragraph (b).

Decision and Order

76 F.T.C.

- (d) All other charges, individually itemized, which are included in the amount of the credit extended but which are not part of the finance charge.
- (e) The total amount to be financed (the sum of the amount described in paragraph (c) plus the amount described in paragraph (d)).
- (f) The amount of the finance charge.
- (g) The finance charge expressed as an annual percentage rate.
- (h) The total credit price (the sum of the amounts described in paragraph (e) plus the amount described in paragraph (f) and the number, amount, and due dates or periods of payments scheduled to pay the total credit price).
- (i) The default, delinquency, or similar charges payable in the event of late payments as well as all other consequences provided in the sales or credit agreements for late or missed payments.
- (j) A description of any security interest held or to be retained or acquired by respondents in connection with the extension of credit, and a clear identification of the property to which the security interest relates.
- (k) For purposes of this paragraph, the definition of the term "finance charge" and computation of the annual percentage rate is to be determined under [§ 106 and § 107 of] Public Law 90-321, the "Truth in Lending Act," and the regulations promulgated thereunder.
4. Adding finance charges to any conditional sale contract or other credit instrument after the contract or instrument has been signed without the knowledge of the customer.
5. Failing to supply each customer who executes a conditional sale contract or other credit instrument, a copy of the contract or instrument at the time of execution by the customer.
6. Designating merchandise which is the subject of one retail installment contract as security for the buyer's performance under any other retail installment contract.
7. Failing or refusing to pass title to the buyer of merchandise purchased under a retail installment contract when the full time price of that merchandise has been paid.

402

## Decision and Order

8. Using any form of conditional sale contract or other instrument of indebtedness which provides that merchandise which is the subject of one contract will be security for the buyer's payment for subsequent purchases or that subsequent purchases will be added to and made a part of the original agreement; or which permits directly or by implication, the respondents to refuse or fail to pass title to the buyer of merchandise when the full time price of that merchandise has been paid.

9. Using a debt collection form or any similar writing which simulates a legal document or which resembles or is represented to be a document authorized, issued or approved by a court of law or any other official or legally constituted or authorized authority.

*It is further ordered,* That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

*It is further ordered,* That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

*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.

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IN THE MATTER OF  
SWINGLINE INC.

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

*Docket No. 8759. Complaint, Apr. 1, 1968—Decision, Oct. 9, 1969*

Order requiring a Long Island City, N.Y., manufacturer of stapling, tacking and riveting devices to divest itself to an eligible company, approved by the Commission, of all the assets, patents, and equipment of an acquired company (Speedfast, Inc.); to cause its wholly-owned subsidiary (Spot-nails, Inc.) to grant a royalty-free license to said eligible company; to refrain for a period of 10 years from acquiring any competitor without

Complaint

76 F.T.C.

prior approval of the Federal Trade Commission; and take other steps to restore competition in the industry as provided in the order.

## COMPLAINT

The Federal Trade Commission, having reason to believe that the above-named respondent has violated Section 7 of the Clayton Act, as amended, 15 U.S.C., Section 18, by virtue of its acquisition of the assets of Spotnails, Inc., and that a proceeding by it in respect thereof would be in the public interest, hereby issues this complaint, stating its charges as follows:

## I

*Definitions*

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

(a) "Portable industrial pneumatic staplers, nailers and tackers" are tools which utilize compressed air to drive various types of metallic fasteners to attach wood, fabric, sheet metal and other substances to each other. They do not include tools used for closing corrugated containers.

(b) "Fasteners" are metallic staples, tacks, brads, nails, corrugated clips and pins used in the machines described in subparagraph 1(a).

## II

*Swingline Inc.*

2. Respondent, Swingline Inc. ("Swingline"), is a corporation organized and existing under the laws of the State of New York with its office and principal place of business located at 32-00 Skillman Avenue, Long Island City, New York.

3. Swingline is a manufacturer and seller of home, business and industrial stapling, tacking, and riveting devices and fasteners used therein, adhesives, commercial stationery, office record keeping and other miscellaneous office equipment. For its fiscal year ending August 31, 1966. Swingline had net sales of \$60,316,414, total assets of \$39,349,087, and net income of \$5,821,916.

4. Swingline had its origin in a business founded in 1925 by Mr. Jack Linsky, which engaged in the distribution of stapling

407

*Complaint*

machines and staples. By 1930 the business (which had since been incorporated) had begun its own manufacture of such products. In 1939 the corporation was replaced by a partnership, Speed Products Co., of which Mr. and Mrs. Jack Linsky were the sole partners. In 1946 the present corporation was incorporated under the laws of the State of New York, under the name of Speed Products Co., Inc., to succeed to the business of the partnership. In 1956 the corporation changed its name to Swingline Inc., and continued to be wholly owned by Mr. and Mrs. Jack Linsky, who also were, and are now, officers and directors of Swingline. In 1960 Swingline became a publicly held corporation when Mr. and Mrs. Jack Linsky sold approximately 29% of the outstanding stock in a public offering.

5. In 1957 a wholly owned subsidiary of Swingline acquired all the assets of Ace Fastener Corporation, a manufacturer of staplers and staples, for \$1,533,000. In 1959 Swingline became the controlling shareholder of Wilson Jones Company, a manufacturer of a diversified line of commercial stationery and office record keeping materials. In 1963 the operations of Wilson Jones Company were consolidated into Swingline. In 1966 respondent acquired the Marson Corporation and Marson Fastener Corporation for Swingline stock valued at about \$4 million. Marson made rivets and rivet setting tools and various adhesives.

6. Swingline sells its products throughout the United States and is, and for many years has been, engaged in "commerce" within the meaning of the Clayton Act.

## III

*Speedfast Corporation*

7. In 1954 Mr. and Mrs. Jack Linsky formed a corporation under the name Swingline Industrial Corp. ("Industrial") to engage in the development and sale of a line of portable pneumatic staplers, nailers and tackers for industrial purposes, together with the fasteners required for such equipment. These products were purchased or manufactured for and sold to Industrial by Swingline. Mr. and Mrs. Jack Linsky owned all the voting stock of Industrial.

8. In 1960 Industrial changed its corporate name to Speedfast Corporation ("Speedfast"). At about the same time, Speedfast established its own offices and manufacturing facilities in premises leased from Swingline, where it commenced the manufacture of

Complaint

76 F.T.C.

its own portable industrial pneumatic staplers, nailers and tackers and supplies therefor. Mr. and Mrs. Jack Linsky continued to own all of Speedfast's voting stock. All the non-voting stock in Speedfast was owned by members of Mr. and Mrs. Jack Linsky's family.

9. In the year ending December 31, 1964, Speedfast had total sales of \$2,602,158 and net income of \$77,868. For the eight months ending August 31, 1965, Speedfast had total sales of \$2,121,870 and net income of \$125,932. On August 31, 1965, Speedfast's total assets were \$1,847,387. The company employed about 200 people.

10. At all times relevant herein, Speedfast sold its products in interstate commerce throughout the United States.

#### IV

##### *Spotnails, Inc.*

11. Prior to its acquisition by a newly organized subsidiary of respondent on August 16, 1965, Spotnails, Inc. ("Spotnails"), was a corporation organized and existing under the laws of the State of Illinois with its office and principal place of business located at 1100 Hicks Road, Rolling Meadows, Illinois.

12. Prior to its acquisition, Spotnails was a leading producer of portable industrial pneumatic staplers, nailers and tackers and fasteners used therein. Spotnails' plants were located in Illinois, California and New Jersey. For its fiscal year ending October 31, 1964, total sales of Spotnails were \$7,067,000, total assets were \$3,373,000 and net income was \$250,000. About 400 people were employed by Spotnails.

13. On September 1, 1965, Swingline, through a new subsidiary also named Spotnails, Inc., acquired all the outstanding stock of Speedfast from Mr. and Mrs. Jack Linsky and members of their family for \$2,500,000.

14. At all times relevant herein, Spotnails sold its products throughout the United States and is, and for many years has been, engaged in "commerce" within the meaning of the Clayton Act.

#### V

##### *Trade and Commerce*

15. Portable industrial pneumatic staplers, nailers and tackers are utilized principally in the manufacture of furniture, the light

407

*Complaint*

construction industry including both residential and commercial buildings, the mobile home industry and woodworking industry. The devices are capable of substantially higher output than hand driven tools, greatly reduce worker fatigue, and are thus especially desirable where high volume production is encountered. The market for these products is expanding.

16. Portable industrial pneumatic staplers, nailers and tackers and fasteners were manufactured, distributed and sold in the United States by approximately 20 domestic companies in 1964. The seven largest companies, including Spotnails and Speedfast, accounted for about 90% of all such domestically-produced devices sold in the United States in 1964. In 1964, Spotnails and Speedfast accounted for approximately 15% and 5%, respectively, of the total United States production and sale of portable industrial pneumatic staplers, nailers and tackers and fasteners.

17. Prior to August 16, 1965, Spotnails and Speedfast were substantial competitors in the sale of portable industrial pneumatic staplers, nailers and tackers and fasteners.

## VI

*Violation Charged*

18. On August 16, 1965, Swingline, through a subsidiary now known as Spotnails, Inc., acquired all the assets of Spotnails in exchange for 75,428 shares of Swingline common stock having an approximate market value of \$3,100,000. At the time of the acquisition of Spotnails, Mr. and Mrs. Jack Linsky owned approximately 41% of Swingline's common stock, were officers and directors of Swingline, and owned all the voting stock of Speedfast.

19. By virtue of the common ownership of Swingline and Speedfast stock by Mr. and Mrs. Linsky, the effect of the acquisition of Spotnails may be substantially to lessen competition or to tend to create a monopoly throughout the United States in violation of Section 7 of the Clayton Act, in that:

(a) Substantial, actual and potential competition between Speedfast and Spotnails in the production, distribution and sale of portable industrial pneumatic staplers, nailers and tackers and fasteners has been eliminated.

(b) Concentration in the production, distribution, and sale of portable industrial pneumatic staplers, nailers and tackers and fasteners has been increased.

Complaint

76 F.T.C.

(c) New entry into the manufacture, distribution and sale of portable industrial pneumatic staplers, nailers and tackers and fasteners may be inhibited or prevented.

(d) Consumers have been denied the benefits of free and open competition in the sale and distribution of portable industrial pneumatic staplers, nailers and tackers and fasteners.

*Mr. William A. Arbitman and Mr. William S. Farmer, Jr.*, supporting the complaint.

*Hogan & Hartson by Mr. George W. Wise, and Mr. Timothy J. Bloomfield*, Washington, D.C., *Mr. Sandor C. Schweiger*, Long Island City, New York, for respondent.

INITIAL DECISION BY ANDREW C. GOODHOPE, HEARING EXAMINER

JULY 30, 1969

The Federal Trade Commission issued its complaint against respondent on April 1, 1968, charging it with violation of Section 7 of the Clayton Act, as amended (38 Stat. 731; 15 U.S.C. 18). The respondent filed an answer in which it admitted certain allegations of the complaint but denied that it had violated Section 7 of the Clayton Act.

The complaint charged that a violation of Section 7 of the Clayton Act resulted from the acquisition by respondent, Swingline, through a subsidiary, of all the assets of a corporation known as Spotnails, Inc. Subsequently Swingline, through a subsidiary, acquired all the outstanding stock of a competitor of Spotnails, Inc., Speedfast Corporation. The voting stock of Speedfast was owned by Mr. and Mrs. Jack Linsky, who owned approximately 41% of the common stock of Swingline. The complaint charged that as a result of the control of respondent Swingline and the ownership of Speedfast by the Linsky family, the acquisition of Spotnails may substantially lessen competition or tend to create a monopoly.

This matter has been before the Commission on two previous occasions as a result of certifications by the examiner of motions to withdraw the matter from adjudication in attempts to settle the case without trial. On both occasions the Commission has rejected the settlement proposals. Now after lengthy negotiations between counsel in support of the complaint and counsel for respondent, the matter is before the hearing examiner on the basis of a stipulation of facts and a stipulated order. Counsel for both

407

## Initial Decision

parties have agreed to and have signed the stipulation of facts containing a stipulated order and have filed a joint memorandum setting forth their reasons in justification of the stipulated order. The stipulation is made solely for the purpose of disposing of this matter without trial.

The record before the hearing examiner consists of the complaint, respondent's answer thereto, the stipulation of facts containing stipulated order and joint memorandum in support of the agreed upon order.

The hearing examiner, having considered the entire record outlined above, makes the following findings of fact, conclusions drawn therefrom, and issues the following order.

## FINDINGS OF FACT

1. Respondent, Swingline Inc. ("Swingline"), is a corporation organized and existing under the laws of the State of New York with its office and principal place of business located at 32-00 Skillman Avenue, Long Island City, New York (Para. 2 of Comp.; Admitted Para. 1 of Answer).

2. Swingline is a manufacturer and seller of home, business and industrial stapling, tacking, and riveting devices and fasteners used therein, adhesives, commercial stationery, office record keeping and other miscellaneous office equipment.<sup>1</sup> For its fiscal year ending August 31, 1966, Swingline had net sales of \$60,316,414, total assets of \$39,849,087, and net income of \$5,821,916. (Paras. 1 and 3 of Comp.; admitted Para. 1 of Answer; Stip. CX 1 A-B.)

3. Swingline had its origin in a business founded in 1925 by Mr. Jack Linsky, which engaged in the distribution of stapling machines and staples. By 1930 the business (which had since been incorporated) had begun its own manufacture of such products. In 1939 the corporation was replaced by a partnership, Speed Products Co., of which Mr. and Mrs. Jack Linsky were the

<sup>1</sup> For the purposes of this initial decision, the following definitions shall apply:

(a) "Portable industrial pneumatic staplers and nailers" are tools which utilize compressed air to drive various types of metallic fasteners to attach wood, fabric, sheet metal and other substances to each other.

(b) "Fasteners" are staples, nails, brads, pins and corrugated clips which are used in the machines described in subparagraph 1(a).

(c) The term "heavy-duty" when used in conjunction with the fasteners defined in subparagraph 1(b) shall describe staples, nails and corrugated clips having a gauge measurement of eighteen (18) or less, and pins and brads having a gauge measurement of sixteen (16) or less. When used in conjunction with the machines described in subparagraph 1(a), the term "heavy-duty" shall mean that such machines are designed to drive heavy-duty fasteners.

Initial Decision

76 F.T.C.

sole partners. In 1946 the present corporation was incorporated under the laws of the State of New York, under the name of Speed Products Co., Inc., to succeed to the business of the partnership. In 1956 the corporation changed its name to Swingline Inc. and continued to be wholly owned by Mr. and Mrs. Jack Linsky, who also were, and are now, officers and directors of Swingline. In 1960 Swingline became a publicly held corporation when Mr. and Mrs. Jack Linsky sold approximately 29% of the outstanding stock in a public offering (Para. 4 of Comp.; admitted Para. 1 of Answer).

4. In 1957 a wholly owned subsidiary of Swingline acquired all the assets of Ace Fastener Corporation, a manufacturer of staplers and staples, for \$1,533,000. In 1959 Swingline became the controlling shareholder of Wilson Jones Company, a manufacturer of a diversified line of commercial stationery and office record keeping materials. In 1963 the operations of Wilson Jones Company were consolidated into Swingline. In 1966 respondent acquired the Marson Corporation and Marson Fastener Corporation for Swingline stock valued at about \$4 million. Marson made rivets and rivet setting tools and various adhesives (Para. 5 of Comp.; admitted Para. 1 of Answer).

5. Swingline sells its products throughout the United States and is, and for many years has been, engaged in "commerce" within the meaning of the Clayton Act (Para. 6 of Comp.; admitted Para. 1 of Answer).

6. Heavy-duty portable industrial pneumatic staplers and nailers are used primarily in the furniture making industry, residential construction industry and the mobile home manufacturing industry to obtain higher output and greater efficiency than is yielded by hand powered tools, such as hammers and hand operated staplers. These heavy duty staplers and nailers are especially desirable for high volume production. The use of these tools is increasing substantially, with the result that the manufacture and sale of the tools and fasteners used therein is also expanding (Stip. CX 1 B-C).

7. Heavy-duty industrial pneumatic staplers and nailers are technically sophisticated, and they are generally manufactured under patents. These tools, furthermore, are constantly being refined and improved through research and development and these advancements are quite often patented themselves (Stip. CX 1 B-C).

407

## Initial Decision

8. During 1965 there were only about seven domestic producers of heavy-duty portable industrial pneumatic staplers and nailers. Spotnails, Inc. (an Illinois corporation hereinafter referred to as Spotnails), was a leading producer of such machines and Speedfast Corporation (hereinafter referred to as Speedfast) was a substantial competitor of Spotnails in this industry. Respondent Swingline was not engaged in the production, distribution or sale of heavy-duty portable industrial pneumatic staplers, nailers or fasteners until respondent's acquisition of Spotnails and Speedfast as described below (Stip. CX 1 C).

9. On August 16, 1965, Swingline, through its newly formed subsidiary, Spotnails, Inc., acquired all the assets of Spotnails in exchange for 75,428 shares of Swingline common stock having an approximate value of \$3,100,000. At the time of the acquisition of Spotnails, Mr. and Mrs. Jack Linsky owned approximately 41% of Swingline's common stock and were officers and directors of Swingline (Stip. CX 1 C).

10. Prior to its acquisition by a newly organized subsidiary of respondent on August 16, 1965, Spotnails, Inc., was a corporation organized and existing under the laws of the State of Illinois with its office and principal place of business located at 1100 Hicks Road, Rolling Meadows, Illinois (Para. 11 of Comp.; admitted Para. 1 of Answer).

11. Prior to its acquisition, Spotnails was a leading producer of portable industrial pneumatic staplers, nailers and tackers and fasteners used therein. Spotnails' plants were located in Illinois, California and New Jersey. For its fiscal year ending October 31, 1964, total sales of Spotnails were \$7,067,000, total assets were \$3,373,000 and net income was \$250,000. About 400 people were employed by Spotnails (Par. 12 of Comp.; admitted Para. 1 of Answer).

12. On September 1, 1965, Swingline, through a new subsidiary also named Spotnails, Inc., acquired all the outstanding stock of Speedfast from Mr. and Mrs. Jack Linsky and members of their family for \$2,500,000 (Para. 13 of Comp.; admitted Para. 1 of Answer; Stip. CX 1 D).

13. In 1954 Mr. and Mrs. Jack Linsky formed a corporation under the name Swingline Industrial Corp. ("Industrial") to engage in the development and sale of a line of portable pneumatic staplers, nailers and tackers for industrial purposes, together with the fasteners required for such equipment. These products

Initial Decision

76 F.T.C.

were purchased or manufactured for and sold to Industrial by Swingline. Mr. and Mrs. Jack Linsky owned all the voting stock of Industrial. (Para. 7 of Comp.; admitted Para. 1 of Answer.)

14. In 1960 Industrial changed its corporate name to Speedfast Corporation (Speedfast). At about the same time, Speedfast established its own offices and manufacturing facilities in premises leased from Swingline, where it commenced the manufacture of its own portable industrial pneumatic staplers, nailers and tackers and supplies therefor. Mr. and Mrs. Jack Linsky continued to own all of Speedfast's voting stock. All the non-voting stock in Speedfast was owned by members of Mr. and Mrs. Jack Linsky's family (Para. 8 of Comp.; admitted Para. 1 of Answer).

15. In the year ending December 31, 1964, Speedfast had total sales of \$2,602,158 and net income of \$77,868. For the eight months ending August 31, 1965, Speedfast had total sales of \$2,121,870 and net income of \$125,932. On August 31, 1965, Speedfast's total assets were \$1,847,387. The company employed about 200 people (Para. 9 of Comp.; admitted Para. 1 of Answer).

16. At all times relevant herein, both Spotnails and Speedfast sold their products throughout the United States and are, and for many years have been engaged in "commerce" within the meaning of the Clayton Act (Para. 10 and 14 of Comp.; admitted Para. 1 of Answer).

17. By virtue of their positions as founders, dominant stockholders, officers (Mr. Linsky being president and Mrs. Linsky being treasurer of Swingline) and directors (Mr. Linsky being chairman of the board) of Swingline, Mr. and Mrs. Linsky were in a position to influence the conduct and direction of respondent's business. At the same time, Mr. and Mrs. Linsky were also sole owners of Speedfast's voting stock and thereby controlled that corporation (Stip. CX 1 D).

18. Prior to the acquisition of Speedfast, Inc., by respondent's new subsidiary Spotnails, Inc., in 1965, Speedfast and Spotnails were totally unrelated and distinct organizations. After the acquisition and merger of these two organizations into the new corporation called "Spotnails, Inc.," a total integration of all of the various functions and facilities of both corporations occurred and the original Speedfast Corp. was dissolved. Among the changes made in the corporations to avoid duplication of functions and in-

407

## Initial Decision

sure that only the best features of the respective operations of these companies would continue are these:

- (a) The Spotnails manufacturing plant and facilities of Clark, New Jersey, were shut down and its operations transferred to the Long Island City plant of Speedfast.
- (b) Previous Speedfast manufacturing activities were shifted to the Rolling Meadows plant operated by Spotnails in Illinois. The result has been that the Rolling Meadows plant largely manufactures and assembles Spotnails and Speedfast machines and the Long Island City operations primarily produces fasteners for such machines.
- (c) The products formerly sold by the two companies have been consolidated into one product line utilizing only the "Spotnails" trade name and trademark.
- (d) There are no longer two independent research and development functions and all research and development work is consolidated.
- (e) A number of changes were made in supervisory personnel with certain shifts between the two corporations subsequent to the acquisition. This is also true in the Executive Departments of both companies. Very few of the Spotnails of Illinois executives remained with the new company, and a number of new executives have been hired.
- (f) Prior to the acquisition of Spotnails had a direct sales distribution system employing salesmen dealing directly with the user companies. Speedfast had independent distributors and did not deal direct. Subsequent to the merger, both of these methods were combined so that today Spotnails has a mixture of distributors and direct salesmen. The sales force today is composed almost entirely of persons hired by the new company.
- (g) Spotnails today is a part of a large group of companies, of which Swingline is the parent. The respondent Swingline performs a number of important corporate functions for Spotnails and its other subsidiaries for which they are charged and the subsidiaries have no personnel to perform these functions. For example, the comptroller of respondent's Swingline exercises financial management and control over Spotnails, including cost control and money management. The international activities of Spotnails are directed by Swingline's director of international operations and is in charge of developing all foreign business for the company.

Initial Decision

76 F.T.C.

Consequently, there has been virtually a complete integration and scrambling of the assets, operating personnel, research and development operations and sales and distribution facilities of the two corporations. (See affidavit of Marvin Libby, executive vice president of Spotnails, Inc., of New York and a vice president of Swingline Inc., attached to the joint memorandum in support of the agreed upon order filed by counsel for both parties.)

#### CONCLUSION

The effect of respondent's acquisition of Spotnails and Speedfast may be substantially to lessen competition or to tend to create a monopoly throughout the United States in violation of Section 7 of the Clayton Act, as amended, in that:

- (a) Substantial actual and potential competition between Speedfast and Spotnails in the production, distribution and sale of heavy-duty portable industrial pneumatic staplers and nailers and fasteners has been eliminated.
- (b) Concentration in the production, distribution and sale of heavy-duty portable industrial pneumatic staplers and nailers and fasteners has been increased (Stip. CX 1 D-E).

#### ORDER TO CEASE AND DESIST

##### *Preliminary Statement*

Counsel in support of the complaint and counsel for respondent have submitted a memorandum in support of agreed upon order to cease and desist. This memorandum is in the record as Commission Exhibit 2 A-I.

As found above, the theory of the complaint is that common ownership of Swingline and Speedfast stock by the Linskys made Swingline's acquisition of Spotnails anticompetitive since it subjected both Speedfast and Spotnails to common control. While the complaint is cast in terms of total sales of all types of portable industrial pneumatic staplers and nailers and fasteners therein, the stipulation and order to cease and desist are directed to heavy-duty tools and fasteners. It was in this market that the effect of the acquisition was direct and immediate. This is true since all of Spotnails sales were in the heavy-duty field, while only about half of the Speedfast sales were in the heavy-duty line. Consequently, both counsel for the parties agreed that it is the heavy-duty line wherein injunctive relief should be effected.

407

## Initial Decision

Counsel urge that the agreed upon order would accomplish the same objective as the order called for by the original complaint and probably provide a more effective remedy than the entry of such order after litigation.

The hearing examiner agrees that the proposed and agreed upon order is the best possible relief under the circumstances of this matter.

As found above, the complete integration of Speedfast and Spotnails subsequent to the merger would make it virtually impossible to put Spotnails back in a position where it could be a viable corporation with some hope of success after divestiture.

The respondent and its counsel have undertaken the duty as provided in the order to present for approval by the Commission a completely new company obliged to enter the heavy-duty portable industrial pneumatic stapler, nailer and fastener industry. Respondent must satisfy the Commission that the new company will have financial resources sufficient to make a substantial entry into the industry in terms of manufacturing space, production facilities and working capital.

The order bans respondent from making any further acquisitions in the broad industrial nailing, stapling and tacking field for ten years. This was also provided for in the original order in the complaint.

The respondent, in order to insure the success of the new company, has undertaken, as provided by the order, a number of duties. As found above, patents and patent protection in the industry is essential. With adequate patent rights, the new entrant should find it relatively easy to become a manufacturer and seller of these products. Fabricators to make the components of the machines are readily available to manufacture the parts for easy assembly by a patent holder. Also the manufacturing machines themselves can readily be purchased. Plant space can be leased and methods of distribution developed if adequate customers are available to it. The order provides that the respondent will give the new entrant not only a royalty-free license under all patents held by Spotnails and Speedfast at the time of the acquisition but also provides for licensing the new entrant under several patents relating to the heavy-duty line which have been developed since the acquisition, plus any such patents which are issued, filed or acquired by respondent for three years.

In addition, the order requires respondent to supplement its patent licensing by providing technical assistance, know-how,

Initial Decision

76 F.T.C.

blueprints, designs, etc., relating to the heavy-duty staplers, nailers and fasteners.

Respondent's current inventory of Speedfast heavy-duty tools is being divested to enable the new company to immediately begin selling a line of heavy-duty machines and all orders for these Speedfast tools will be forwarded to the new company as well as orders for Speedfast fasteners. The new company will also acquire respondent's entire inventory of Speedfast parts and be able to service the current users of Speedfast tools and supply them with fasteners.

In addition, respondent will provide access to its suppliers of components for Spotnails heavy-duty guns, plus a list of all substantial customers of these guns. Consequently, the new company will be able to sell fasteners and parts to the present users of Spotnails line of heavy-duty tools in addition to the users of Speedfast heavy-duty tools.

Respondent will also provide technical assistance. The new company will be able to produce fasteners for Spotnails heavy-duty machines and the machines themselves. Respondent also agrees to purchase substantial volumes of fasteners from the new company for three years at respondent's distributor prices for such fasteners. This will give the new company a foothold in the industry during the time required to develop and market its own line of heavy-duty tools and fasteners.

The new company will also have the use of the "Speedfast" trade name and trademarks.

The effect of the order will assure the presence of two competitors in the heavy-duty market, the new entrant and respondent. The new entrant should be on a relatively stable basis since it would have the benefit of all of respondent's present patents in the heavy-duty field, plus new patents for three years. In addition, the new company would have the use of a royalty-free license in the corrugated aspect of the industry at least lessening respondent's present dominance in this corrugated field. The order will also open a large number of Spotnails gun users to new competition since the new company will be able to service their machines, supply fasteners for them, and know who these customers are.

The examiner believes that the entry of the following order to cease and desist will effectively insure a new competitor in the heavy-duty fastener field and will be more effective than an order

407

## Initial Decision

to cease and desist after trial since the respondent has now undertaken the duty of cooperating in organizing the new entrant and insuring that it will at least have a reasonable opportunity for success which the respondent would be reluctant to do after litigation.

## ORDER

## I

For the purposes of this order, the following definitions shall apply:

- (a) "Portable industrial pneumatic staplers and nailers" are tools which utilize compressed air to drive various types of metallic fasteners to attach wood, fabric, sheet metal and other substances to each other.
- (b) "Fasteners" are metallic staples, nails, brads, pins, and corrugated clips, which are used in the machines described in subparagraph I(a).
- (c) The term "heavy duty," when used in conjunction with the fasteners defined in subparagraph I(b), shall describe staples, nails and corrugated clips having a gauge measurement of eighteen (18) or less, and pins and brads having a gauge measurement of sixteen (16) or less. When used in conjunction with the machines described in subparagraph I(a), the term "heavy duty" shall mean that such machines are designed to drive heavy duty fasteners.

## II

*It is ordered,* That respondent shall as soon as practicable, but in no event in excess of one (1) year from the date this order becomes final, present a financially sound and eligible company (hereinafter referred to as "eligible company") and a contract between respondent and said eligible company, both subject to Commission approval. Said contract shall provide that the eligible company will within one (1) year following Commission approval, enter into business as a producer and seller of heavy duty portable industrial pneumatic nailers and staplers, and as a manufacturer and seller of fasteners therefor.

## III

*It is further ordered,* That respondent, in connection with the

Initial Decision

76 F.T.C.

requirements of Paragraph II of this order, will present an eligible company with sufficient capital resources and financial capability to assure, to the satisfaction of the Commission, that said eligible company can provide for itself the following:

- 1) manufacturing space suitable for the operation of a heavy duty portable industrial pneumatic nailer, stapler, and fastener plant with capacity to produce annually a minimum of \$2,000,000 of said fasteners and \$500,000 of said nailers and staplers;
- 2) such machinery, equipment, facilities and other property as may be necessary to make such plant a sound and going concern for the manufacture and sale annually of \$2,000,000 of heavy duty fasteners, and such machinery, equipment, facilities and other property as may be necessary to make such plant a sound and going concern for the finishing, assembling and selling annually of a minimum of \$500,000 of heavy duty portable industrial pneumatic nailers and staplers;
- 3) adequate working capital for the opening and early expansion of the business above described for a period of three (3) years beginning with the opening of the plant for business.

#### IV

*It is further ordered,* That respondent shall within one year from the date this order becomes final divest itself to eligible company absolutely and in good faith of all the following assets, properties, rights and privileges, tangible or intangible, acquired by said respondent as a result of its acquisition of the stock of Speedfast, Inc., relating to the production, distribution and sale of all heavy duty portable industrial pneumatic nailers and staplers manufactured and sold by Speedfast prior to its acquisition by respondent; all inventory in stock of said nailers and staplers and of parts therefor; names of suppliers of said nailers, staplers and parts; a list of all customers to which Speedfast products have been sold, prior to and since September 1, 1965; and all plans, drawings, blueprints, tooling, patents, trademarks and trade names both domestic and foreign, which relate to the production distribution and sale of the said heavy duty portable industrial pneumatic nailers and staplers. Each of said heavy duty portable industrial pneumatic nailers and staplers is listed in Ap-

407

## Initial Decision

pendix A hereto, and each of said patents, trademarks and trade names is listed in Appendix B hereto.

## V

*It is further ordered,* That respondent shall cause its wholly owned subsidiary Spotnails, Inc., to grant a royalty-free license to eligible company, if such license is desired by said company, under any or all of said Spotnails' patents, patent applications and know-how existing at the date of said divestiture and relating to the manufacture, use or sale of all heavy duty portable industrial pneumatic nailers and staplers which were or are produced, distributed or sold by Spotnails. Each of said heavy duty portable industrial pneumatic nailers and staplers is listed in Appendix C hereto, and each of said presently existing patents and patent applications to be licensed is listed in Appendix D hereto.

## VI

*It is further ordered,* That respondent shall cause to be granted to eligible company a license for a reasonable royalty, if such license is desired by said company, under any and all future patents, patent applications and know-how issued, filed or acquired by respondent or any of its subsidiaries and, to the extent that it has the right to do so, by any of its officers, directors, agents, representatives and employees within a period of three years from the date of divestiture relating to the manufacture, use or sale of heavy duty portable industrial pneumatic staplers and nailers: *Provided*, That the first Spotnails round-head nailer shall be included under such license regardless of when the patent for such nailer shall issue.

## VII

*It is further ordered,* That pending divestiture, respondent shall not take any action with respect to any of the assets, properties, rights and privileges of the former Speedfast, Inc., required to be divested hereby, which may impair their usefulness for the manufacture, sale or distribution of heavy duty portable industrial pneumatic nailers and staplers, or their market value.

## VIII

*It is further ordered,* That, in accomplishing the aforesaid divestiture, respondent shall not sell or transfer the assets, proper-

Initial Decision

76 F.T.C.

ties, rights or privileges described in Paragraph IV of this order, directly or indirectly, to any person who, at the time of such divestiture, is a stockholder, officer, director, employee, or agent of, or otherwise directly or indirectly connected with or under the control or influence of respondent, or to a subsidiary or affiliated corporation of respondent, or to any person who is not approved in advance by the Federal Trade Commission.

## IX

*It is further ordered,* That respondent shall agree to purchase from the eligible company, for a period of three (3) years after opening of its plant, heavy duty fasteners, or to assign customers' orders therefor to said eligible company, in the following amounts: Two Hundred Fifty Thousand Dollars (\$250,000) during the first year; Three Hundred Fifty Thousand Dollars (\$350,000) during the second year; and Two Hundred Thousand Dollars (\$200,000) during the third year. Respondent shall agree to assign to said company all orders for heavy duty fasteners previously manufactured and sold by Speedfast, and not manufactured and sold by Spotnails prior to August 16, 1965, which are ordered under the trade name or trademark "Speedfast." The purchases or assignments of customers' orders required by the first sentence of this Paragraph shall be reduced by the dollar amount of customers' orders assigned to eligible company pursuant to the second sentence of this Paragraph.

## X

*It is further ordered,* That respondent shall assign to the eligible company all orders received for Speedfast heavy duty portable industrial pneumatic nailers and staplers and parts therefor, which have been and are currently sold under the Speedfast trade name or trademark.

## XI

*It is further ordered,* That respondent's contract with the eligible company for purchase and/or assignment of customers' orders under Paragraph IX will be in form approved by the Commission with prices to be paid to the eligible company by respondent equal to the lowest Spotnails' prices to distributors for the items, or items of like kind, and with prices on any and all assigned orders billed directly by the eligible company to the

407

## Initial Decision

customers or distributors at the price set forth in such assigned orders. The fasteners to be purchased or orders assigned therefor as provided in Paragraph IX shall be manufactured to respondent's specifications or to the specifications stated on the assigned orders. Said contract may, upon the agreement of both parties, also provide that the eligible company may consider any such assigned business which it has been directly servicing with the customers as its own continuous volume at the risk of holding against competitors other than respondent. Such purchases by respondent from eligible company shall consist of fasteners which said eligible company informs respondent it has the capability of supplying, but in no case shall such purchases exceed actual orders by respondent.

## XII

*It is further ordered,* That respondent shall cause Spotnails to supply the eligible company, for a period of six months from the date said company commences selling heavy duty portable industrial pneumatic staplers and nailers or fasteners therefor, to the extent that said company so requests, with fasteners suitable for use in the Speedfast heavy duty protable industrial pneumatic staplers and nailers listed in Appendix A, at a price of 50% of the list price published by Spotnails for such fasteners.

## XIII

*It is further ordered,* That respondent shall provide the eligible company with a current list of all customers to whom its wholly owned subsidiary Spotnails, Inc., is selling. This list shall contain an appropriate designation of those customers who purchased in significant volume.

## XIV

*It is further ordered,* That, for a period of one year from the date of divestiture hereunder, respondent shall cause Spotnails to furnish at its cost to the eligible company such technical assistance as may be necessary to enable said company to commence to engage in the manufacture of the Speedfast heavy duty portable industrial pneumatic nailers and staplers listed in Appendix A hereto and of fasteners therefor. In the event that said company elects under Paragraphs V and VI of this order to acquire a license under Spotnails patents and know-how: *And provided* That

Initial Decision

76 F.T.C.

said company shall in fact engage in the manufacture of Spotnails heavy duty portable industrial pneumatic staplers and nailers and fasteners therefor, respondent shall cause Spotnails for a period of not more than one year from the date of such license to furnish at its cost to said company such technical assistance as may be necessary to enable said company to commence to engage in the manufacture of Spotnails heavy duty portable industrial pneumatic staplers and nailers and fasteners therefor.

## XV

*It is further ordered,* That, upon the grant of licenses described in Paragraph V of this order, and if requested by eligible company in writing, respondent and its officers, directors, agents, representatives and employees shall, in writing (with a copy to said company), authorize its vendors to supply to the eligible company, for a period of three years from the date of disposition of the assets, properties, rights and privileges ordered divested hereunder, and upon terms and conditions comparable to those afforded to Spotnails, the components which are made by such vendors to Spotnails' specifications and which are used to assemble the heavy duty portable industrial pneumatic nailers and staplers listed in Appendix C hereto. In the event that, during said three year period, said vendors' ability to supply any of such components shall become impaired so that any of said vendors shall become unable to supply sufficient quantities of any such components to satisfy the requirements of both Spotnails and eligible company, the respondent shall cause Spotnails to authorize any such vendor to divide its supply of such components between Spotnails and the eligible company in a manner that reasonably reflects the past purchases by each.

## XVI

*It is further ordered,* That respondent shall cause Spotnails, if eligible company requests, to notify employees of Spotnails that said company is interested in hiring personnel, and, in addition, shall cause Spotnails to release any and all Spotnails personnel who desire to work for said company from their employment obligations and from any obligations and confidentiality relating to heavy duty portable industrial pneumatic staplers and nailers, saving any and all rights to confidentiality relating to any products not subject to divestiture or license.

**XVII**

*It is further ordered,* That for a period of ten (10) years from the date this Order becomes final, respondent shall cease and desist from acquiring, directly or indirectly, through subsidiaries or otherwise, without the prior approval of the Federal Trade Commission, the whole or any part of the share capital or assets of any concern, corporate or noncorporate, engaged in the production, distribution or sale of portable industrial pneumatic staplers, nailers or tackers or fasteners therefor. For the purposes of this Paragraph, the definitions in the complaint shall apply.

**XVIII**

*It is further ordered,* That respondent shall, within sixty (60) days after the date of service of this order, and every ninety (90) days thereafter until respondent has fully complied with the provisions of this order, submit in writing to the Federal Trade Commission a report setting forth in detail the manner and form in which respondent intends to comply, is complying, or has complied with this order. All compliance reports shall include, among other things that are from time to time required, a summary of all contacts and negotiations with persons relating to carrying out the provisions of this order, and copies of all written communications to and from such persons.

**XIX**

*It is further ordered,* That respondent shall forthwith distribute a copy of this order to each of its operating subsidiaries and divisions.

**APPENDIX A**

SPEEDFAST HEAVY DUTY  
PORTABLE INDUSTRIAL PNEUMATIC STAPLER  
AND NAILER MODEL NUMBERS

**I. Staplers**

Model 201	Model 251
Model 201-1	Model 271
Model 231	Model 301

**II. Nailers**

Model 281 -----	T-Nailer
Model 281-3 -----	T-Nailer
Model F-281-3 -----	Finishing Nailer
Model F-281-5 -----	Finishing Nailer
Model 281-4 -----	V-Nailer

Initial Decision

76 F.T.C.

II. *Nailers* cont.

Model 281-2 -----	T-Nailer
Model 281-6 -----	T-Nailer
Model 290 -----	T-Nailer

## APPENDIX B

**SPEEDFAST HEAVY DUTY  
PORTABLE PNEUMATIC STAPLER AND NAILER  
PATENTS AND TRADEMARKS**

I. *Patents*

No.	Description	Date of issue
2,854,953 -----	Fluid-actuated fastener-applying machine -----	Oct. 7, 1958
2,960,067 -----	Single stroke air hammer -----	Nov. 15, 1960
3,037,207 -----	Pneumatic nailer -----	June 5, 1962
3,106,134 -----	Fluid actuated hammer and nailer -----	Oct. 8, 1963
3,252,641 -----	Safety device for fluid actuated fastener driving machines -----	May 24, 1966
Des. 191,802 -----	Pneumatic power tool for applying fasteners -----	Nov. 21, 1961

II. *Trademarks*

No.	Description	Date of expiration
646,770 -----	Design trademark -----	June 11, 1977
669,504 -----	Design trademark -----	Nov. 11, 1978
670,188 -----	Design trademark -----	Nov. 25, 1978
725,800 -----	"Speedfast" -----	Jan. 2, 1982
726,222 -----	"Speedfast" -----	Jan. 9, 1982
761,301 -----	"Speed Fastener" -----	Dec. 10, 1983
766,592 -----	"Speed Fastener" -----	Mar. 17, 1984
776,455 -----	"Speed" -----	Sept. 8, 1984
796,706 -----	"Speed" -----	Sept. 28, 1985

The trademark "Speedfast" in the following foreign countries:

Canada	France	Italy	Spain
Finland	Holland	Japan	West Germany

## APPENDIX C

**SPOTNAILS HEAVY DUTY  
PORTABLE INDUSTRIAL STAPLER AND  
NAILER MODELS**

I. *Staplers*

7400 Series -----	EA, EAX, V, VL Models
7500 Series -----	EA, EAX, V, VL Models
7600 Series -----	EA, EAX, EAPX, EANX, EBX, V, VL Models
3800 Series -----	EA Models
2600 Series -----	V Models
1600 Series -----	V Models
1400 Series -----	V Models

407

## Initial Decision

## APPENDIX C—CONTINUED

**II. Nailers**

EAS	Models	-----	400 Series, V, VL Models
EASX	Models	-----	600 Series, V, VL Models
EAT	Models	-----	800 Series, VL Models
EATX	Models	-----	
EAF	Models	-----	
EAFX	Models	-----	
EBT	Models	-----	
EBF	Models	-----	

**III. Pin Guns**

EAX	-----	150
EAV	-----	150
EAX	-----	300, 400, 500, 912, 1400

**IV. Brad Guns**

E	-----	150
EAX	-----	150
EAV	-----	150

**V. Corrugated Fastener Gun [Pre-Merger Spotnails Gun]**

V	-----	130, 104
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## APPENDIX D

SPOTNAILS HEAVY DUTY  
PORTABLE INDUSTRIAL PNEUMATIC  
STAPLER AND NAILER PATENTS  
AND PATENT APPLICATIONS

**I. Patents**

No.	Description	Date of issue
2,729,198	Pneumatic nailer	Jan. 3, 1956
2,818,570	Pneumatic stapler	Jan. 7, 1958
2,837,743	Feed mechanism for stapling machines	June 10, 1958
2,875,664	Wing head fastener	Mar. 3, 1959
2,880,480	Sash pin with groove	Apr. 7, 1959
2,907,038	Fastener driving machine	Oct. 6, 1959
2,928,094	Pneumatic stapling machine	Mar. 15, 1960
2,928,142	Divergent chisel staple	Mar. 15, 1960
2,942,267	Corrugated fastener strip	June 28, 1960
2,983,255	Machine with driving piston and means associated with the piston for absorbing shocks and vibrations	May 9, 1961
2,994,879	Fastener driving device	Aug. 8, 1961
3,027,560	Dimpler mechanism for fastener driving machines	Apr. 3, 1962

## Final Order

## APPENDIX D—CONTINUED

No.	Description	Date of Issue
3,056,964	Pneumatically operated fastener driving machine	Oct. 9, 1962
3,056,965	Safety mechanism for pneumatic fastener driving machines	Oct. 9, 1962
3,112,489	Pneumatically operated driving machine for fasteners	Dec. 3, 1963
3,172,124	Pneumatic nailer or stapler	Mar. 9, 1965
3,232,511	Pneumatically operated fastener positioning and driving machine	Feb. 1, 1966
3,234,572	Means for making brads	Feb. 15, 1966
3,255,674	Pneumatic fastener and like driving machine	June 14, 1966

## II. Patent Applications

Serial No.	Filing date	Subject matter
D-211,207	June 29, 1967	Design patent on new round headed nailer.
699,986	Jan. 2, 1968	Air return system for round headed nailer.
Not yet issued	Oct. 9, 1968	Magazine, etc. for round headed nailer.
729,113	May 14, 1968	Round headed nail assembly.
457,924	May 24, 1965	Valve mechanism used in round headed nailer.
731,364	May 17, 1968	Trapped air return system for round headed nailer.
695,538	Dec. 14, 1967	Round headed nailer.

## FINAL ORDER

No appeal from the initial decision of the hearing examiner having been filed, and the Commission having determined that the case should not be placed on its own docket for review and that pursuant to Section 3.51 of the Commission's Rules of Practice (effective July 1, 1967), the initial decision should be adopted and issued as the decision of the Commission:

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

*It is further ordered*, That the time within which respondent shall begin submitting the compliance reports ordered in paragraph XVIII of the Order, as set forth in the initial decision, shall commence with the service of this order upon respondent.

431

Complaint  
IN THE MATTER OF  
CENTURY FABRICS, INC., 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-1592. Complaint, Oct. 10, 1969—Decision, Oct. 10, 1969*

Consent order requiring a Chicago, Ill., converter and jobber of drapery and upholstery fabrics, and an importer of Italian tapestry fabrics to cease falsely advertising and misbranding its textile fiber products, and using the word "Looms" or any other word implying that it mills or manufactures the textiles it sells.

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 Century Fabrics, Inc., a corporation, doing business under its own name and as Grant Looms, hereinafter referred to as respondent, has violated the provisions of the 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 Century Fabrics, Inc., 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 345 West Chicago Avenue, Chicago, Illinois. Century Fabrics, Inc., does business under its own name and as Grant Looms.

Respondent Century Fabrics, Inc., is a converter and jobber of cut-orders of drapery and upholstery fabrics and also imports tapestry fabrics from Italy.

PAR. 2. Respondent is now and for some time last past has been, engaged in the introduction, delivery for introduction, sale, advertising, and offering for sale, in commerce, and in the importation into the United States of textile fiber products; and has 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 has sold, offered

Complaint

76 F.T.C.

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 by respondent 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 the constituent fibers contained therein.

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

A. Set forth the generic name of a particular fiber in such a manner as to over emphasize the nylon content of the product, to detract from the required fiber content disclosure and to represent or imply that the products were composed entirely of nylon when in truth and in fact the products contained fibers other than nylon.

B. Set forth the fiber content of textile fiber products composed in part of nylon, in such a manner as to imply that the product was composed entirely of nylon when in truth and in fact such products contained fibers other than nylon.

Also among such misbranded textile fiber products but not limited thereto, were textile fiber products which were falsely and deceptively advertised by means of price lists which used terms such as "Nylon Matelasse" and "Nylon Puff Matelasse," among others but not limited thereto, in such a manner as to represent or imply that the products were composed entirely of nylon when in truth and in fact such products contained fibers other than nylon.

PAR. 4. Certain of such textile fiber products were further misbranded by respondent 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 prescribed by the Rules and Regulations promulgated under said Act.

Among such misbranded textile fiber products but not limited thereto were drapery and upholstery fabrics with labels which

431

## Complaint

failed to disclose: (1) the true generic names of the constituent fibers present in the product in the order of predominance by weight thereof; (2) the percentages of each fiber present, by weight; (3) any fiber or group of fibers present in the amount of less than 5 per centum as "other fiber" or "other fibers;" and (4) the name or other identification issued and registered by the Commission of the manufacturer of the product or one or more persons subject to Section 3 of said Act with respect to such products.

Also among such misbranded textile fiber products were certain textile fiber products, namely drapery and upholstery fabrics sold by means of samples, swatches or specimens and unaccompanied by an invoice or other paper showing the information required to appear on the label, which textile fiber products were not stamped, tagged, labeled or otherwise identified to disclose the information required by Section 4(b) of the Textile Fiber Products Identification Act.

PAR. 5. Certain of said textile fiber products were misbranded in violation of the Textile Fiber Products Identification Act in that they were not labeled in accordance with the Rules and Regulations promulgated thereunder in the following respects:

A. Non-required information was placed on labels in such a manner as to minimize, detract from and conflict with the required information and in such a way as to be false or deceptive as to fiber content, in violation of Rule 16(c) of the aforesaid Rules and Regulations.

B. Fiber trademarks were placed on labels without the generic names of fibers appearing on such labels in violation of Rule 17(a) of the aforesaid Rules and Regulations.

C. Generic names of fibers were used in non-required information on labels in such a manner as to be false, deceptive or misleading as to fiber content and to indicate, directly or indirectly, that such textile fiber products were composed wholly or in part of a particular fiber, when such was not the case, in violation of Rule 17(d) of the aforesaid Rules and Regulations.

PAR. 6. Certain of said textile fiber products were falsely and deceptively advertised in that respondent in making disclosures or implications as to the fiber content of such textile fiber products in written advertisements used to aid, promote or assist, directly or indirectly, in the sale or offering for sale of said products failed to set forth the required information as to fiber

Complaint

76 F.T.C.

content as specified by Section 4(c) of the Textile Fiber Products Identification Act and in the manner and form prescribed by the Rules and Regulations promulgated under said Act.

Among such textile fiber products, but not limited thereto, were drapery, upholstery and slipcover fabrics which were falsely and deceptively advertised by means of price lists, distributed by respondent throughout the United States in that the true generic name of each fiber present in the products was not set forth.

PAR. 7. By means of the aforesaid advertisements and others of similar import and meaning not specifically referred to herein, respondent falsely and deceptively advertised textile fiber products in violation of the Textile Fiber Products Identification Act in that said textile fiber products were not advertised in accordance with the Rules and Regulations promulgated thereunder in the following respects:

A. A fiber trademark was used in advertising textile fiber products without a full disclosure of the fiber content information required by the said advertisement in violation of Rule 41(a) of the aforesaid Rules and Regulations.

B. A fiber trademark was used in advertising textile fiber products containing more than one fiber and such fiber trademark did not appear in the required fiber content information in immediate proximity and conjunction with the generic name of the fiber in plainly legible type or lettering of equal size and conspicuousness, in violation of Rule 41(b) of the aforesaid Rules and Regulations.

C. A fiber trademark was used in advertising textile fiber products containing only one fiber and such fiber trademark did not appear at least once in the said advertisement, in immediate proximity and conjunction with the generic name of the fiber in plainly legible and conspicuous type or lettering, in violation of Rule 41(c) of the aforesaid Regulation.

D. The generic name of a fiber was used in advertising textile fiber products, namely upholstery fabrics, in such a manner as to be false, deceptive or misleading as to fiber content and to indicate directly or indirectly that such textile fiber product was composed wholly or in part of such fiber when such was not the case, in violation of Rule 41(d) of the aforesaid Rules and Regulations.

E. In advertising textile fiber products in such a manner as to require disclosure of the information required by the Act and Regulations, all parts of the required information were not stated

431

## Complaint

in immediate conjunction with each other in legible and conspicuous type or lettering of equal size and prominence, in violation of Rule 42(a) of the aforesaid Rules and Regulations.

PAR. 8. The acts and practices of respondent 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 methods of competition and unfair and deceptive acts or practices in commerce under the Federal Trade Commission Act.

PAR. 9. Respondents are now and for some time last past have been engaged in the advertising, sale, offering for sale, and distribution of textile fiber products, including drapery and upholstery fabrics, in commerce, as "commerce" is defined in the Federal Trade Commission Act.

In the course and conduct of its business, respondent Century Fabrics, Inc., now and for some time last past has caused its said products including drapery and upholstery fabrics, when sold, to be shipped from its place of business in the State of Illinois 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. 10. In the conduct of its business, at all times mentioned herein, respondent Century Fabrics, Inc., has been in substantial competition, in commerce with corporations, firms and individuals in the sale of products of the same general kind as that sold by the respondent.

PAR. 11. In the course and conduct of its business, the aforesaid respondent, Century Fabrics, Inc., on catalogues and price lists, used the name "Grant Looms," thus stating or implying that respondent operates a mill or factory in which such drapery and upholstery fabrics or other products sold by it are manufactured.

PAR. 12. In truth and in fact, respondent Century Fabrics, Inc., does not own, operate, or control any mill or factory where the aforesaid fabrics or other products sold by it are manufactured, but is engaged solely in the business of conversion and distribution of said fabrics or other products. Thus the aforesaid representation is false, misleading and deceptive.

PAR. 13. There is a preference on the part of many members of the public to buy products directly from mills or factories in the

Complaint

76 F.T.C.

belief that by so doing certain advantages accrue to them, including lower prices.

PAR. 14. The use by respondent Century Fabrics, Inc., of the aforesaid false, misleading and deceptive statements, representations and practices has had and now has, the capacity and tendency to mislead purchasers into the erroneous and mistaken belief that said statements and representations are true and into the purchase of substantial quantities of said respondent's products by reason of said erroneous and mistaken belief.

PAR. 15. The aforesaid acts and practices of respondent Century Fabrics, Inc., as herein alleged in Paragraphs Eleven through Fourteen 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 and unfair and deceptive acts and practices in commerce in violation of Section 5(a) (1) of the Federal Trade Commission Act.

#### DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent 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 respondent with violation of the Federal Trade Commission Act and the Textile Fiber Products Identification Act; and

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

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further

conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Century Fabrics, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois. Its office and principal place of business is located at 345 West Chicago Avenue, Chicago, Illinois. This corporation does business under its own name and as Grant Looms.

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 Century Fabrics, Inc., a corporation, doing business under its own name and as Grant Looms, or any other name, and its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, delivery 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 any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported of any textile fiber product which has 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 product whether in its 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 the 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 Sec-

Decision and Order

76 F.T.C.

tion 4(b) of the Textile Fiber Products Identification Act.

3. Placing non-required information on labels in such a manner as to minimize, detract from or conflict with the required information or to be false or deceptive as to fiber content.

4. Using a fiber trademark on labels affixed to textile fiber products without the generic name of the fiber appearing on the said labels.

5. Using the generic names of fibers in non-required information on any label in such a manner as to be false, deceptive or misleading as to fiber content or to indicate directly or indirectly that such textile fiber products are composed wholly or in part of a particular fiber when such is not the case.

B. Falsely and deceptively advertising textile fiber products by:

1. Making any representations, by disclosure or by implication, as to the fiber content of any textile fiber product in any written advertisement which is used to aid, promote or assist, directly or indirectly, in the sale or offering for sale of such textile fiber products unless the same information required to be shown on the stamp, tag, label or other means of identification under Section 4(b)(1) and (2) of the Textile Fiber Products Identification Act is contained in the said advertisement, except that the percentages of the fibers present in the textile fiber product need not be stated.

2. Using a fiber trademark in advertisements without a full disclosure of required content information in at least one instance in the said advertisement.

3. Using a fiber trademark in advertising textile fiber products containing more than one fiber without such fiber trademark appearing in the required fiber content information in immediate proximity and conjunction with the generic name of the fiber in plainly legible type or lettering of equal size and conspicuousness.

4. Using a fiber trademark in advertising textile fiber products containing only one fiber without such fiber trademark appearing at least once in said advertisement in immediate proximity and conjunction with the ge-

neric name of the fiber, in plainly legible and conspicuous type.

5. Using the generic name of a fiber in advertising textile fiber products in such a manner as to be false, deceptive or misleading as to fiber content or to indicate directly or indirectly that such textile fiber products are composed wholly or in part of such fiber when such is not the case.

6. Failing to set forth all parts of the required information in advertisements of textile fiber products in immediate conjunction with each other in legible and conspicuous type or lettering of equal size and prominence.

*It is further ordered,* That respondent Century Fabrics, Inc., a corporation, doing business under its own name and as Grant Looms or any other name, and its officers, representatives, agents and employees directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of fabrics or other products in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Directly or indirectly using the word "Looms" or any other word or term of similar import or meaning in or as a part of respondent's corporate or trade name or representing in any other manner that respondent performs the functions of a mill or otherwise manufactures or processes the fabrics or other products sold by it unless and until respondent owns, operates, or directly and absolutely controls the mill, factory or manufacturing plant wherein said fabrics or other products are manufactured.

2. Misrepresenting in any manner that respondent has mills, factories or manufacturing plants where its products are manufactured.

*It is further ordered,* That the respondent corporation shall forthwith distribute a copy of the order to each of its operating divisions.

*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.

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Complaint

76 F.T.C.

## IN THE MATTER OF

KASBAR QUILTING CORP., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION  
OF THE FEDERAL TRADE COMMISSION AND THE WOOL PRODUCTS  
LABELING ACTS*Docket C-1593. Complaint, Oct. 10, 1969—Decision, Oct. 10, 1969*

Consent order requiring a Brooklyn, N.Y., manufacturer of quilting interlining fabrics to cease misbranding and falsely invoicing its wool products.

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and the Wool Products Labeling Act of 1939, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Kasbar Quilting Corp., a corporation, and Joseph A. Kasbar and Adel Kasbar, 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 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. Respondent Kasbar Quilting Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its office and principal place of business located at 241-59th Street, Brooklyn, New York.

Individual respondents Joseph A. Kasbar and Adel Kasbar are officers of the corporate respondent. They formulate, direct and control the policies, acts and practices of said corporation including the acts and practices hereinafter referred to. Their address is the same as that of the corporate respondent.

Respondents are manufacturers of quilted interlining fabric.

PAR. 2. Respondents, now and for some time last past, 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 the Wool Products Labeling Act of 1939, wool products, as "wool product" is defined therein.

PAR. 3. Certain of said wool products were misbranded by respondents within the intent and meaning of Section 4(a)(1) of

440

## Complaint

the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder in that they were falsely and deceptively stamped, tagged, labeled or otherwise identified with respect to the character and amount of the constituent fibers contained therein.

Among such misbranded wool products but not limited thereto were quilted interlining materials which were stamped, tagged, labeled or otherwise identified by respondents as containing "90% Reprocessed Wool, 10% Other Unknown Reprocessed Fibers," whereas in truth and in fact said fabrics contained substantially different fibers and amounts of fibers than as represented.

PAR. 4. 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, was a wool product with a label on or affixed thereto which failed to disclose the percentage of the total fiber weight of the said wool product, exclusive of ornamentation not exceeding 5 per centum of the total fiber weight, of (1) wool; (2) reprocessed wool; (3) reused wool; (4) each fiber other than wool, when said percentage by weight of such fiber was 5 per centum or more; and (5) the aggregate of all other fibers.

PAR. 5. The acts and practices of the respondents as set forth above 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 methods of competition and unfair and deceptive acts and practices, in commerce, within the intent and meaning of the Federal Trade Commission Act.

PAR. 6. Respondents now and for some time last past have been engaged in the advertising, offering for sale, sale and distribution of products in commerce. The 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 New York to purchasers 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 com-

Complaint

76 F.T.C.

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

PAR. 7. Respondents in the course and conduct of their business, have made statements on invoices and shipping memoranda to their customers misrepresenting the character or amount of the constituent fibers present in such products. Among such misrepresentations but not limited thereto, were statements representing certain quilted interlining fabric to be "90% Reprocessed Wool, 10% Other Unknown Reprocessed Fibers" whereas, in truth and in fact the said product contained substantially different fibers and amounts of fibers than were represented.

PAR. 8. The acts and practices set out in Paragraph Seven have the tendency and capacity to mislead and deceive the purchasers of said products as to the true content thereof.

PAR. 9. The acts and practices of respondents as herein alleged were and are all to the prejudice and injury of the public, and constituted, and now, constitute, 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 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 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 respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Acts, and that complaint should issue

stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Kasbar Quilting Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 241-59th Street, Brooklyn, New York.

Respondents Joseph A. Kasbar and Adel Kasbar are officers of said corporation. They formulate, direct and control the policies, acts and practices 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 Kasbar Quilting Corp., a corporation, and its officers, and Joseph A. Kasbar and Adel Kasbar, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the offering for sale, sale, transportation, 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 misbranding such products by:

1. Falsely or deceptively stamping, tagging, labeling or otherwise identifying such products as to the character or amount of the constituent fibers 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 respondents Kasbar Quilting Corp., a corporation, and its officers, and Joseph A. Kasbar and Adel Kasbar, individually and as officers of said corporation, and re-

Decision and Order

76 F.T.C.

spondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of quilted interlining materials or other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting the character or amount of constituent fibers contained in such products on invoices or shipping memoranda applicable thereto, or in any other manner.

*It is further ordered,* That the respondent corporation forthwith distribute a copy of this order to each of its operating divisions.

*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.

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IN THE MATTER OF

SPORTPIPER OF MIAMI, INC., 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-1594. Complaint, Oct. 10, 1969—Decision, Oct. 10, 1969*

Consent order requiring a Miami, Fla., clothing manufacturer to cease misbranding its textile fiber products and failing to preserve required records.

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 Sportpiper of Miami, Inc., a corporation, and Louis Goldleaf, 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:

444

## Complaint

PARAGRAPH 1. Respondent Sportpiper of Miami, Inc., is a corporation organized and existing under and by virtue of the laws of the State of Florida. The said corporation is currently inactive but has not been dissolved.

Respondent Louis Goldleaf is an officer of said corporate respondent. He formulates, directs and controls the acts, practices and policies of said corporate respondent.

Respondents were engaged in the manufacture and sale of textile fiber products, including ladies' dresses, with their office and principal place of business located previously at 2222 NW. Fifth Avenue, Miami, Florida. The present address of Louis Goldleaf is 1745 James Avenue, Miami Beach, Florida.

PAR. 2. Respondents for some time last past were engaged in the introduction, delivery for introduction, manufacture for introduction, sale, advertising, and offering for sale, in commerce, and in the transportation or causing to be transported 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 had 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 by respondents 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 names and amounts of the constituent fibers contained therein.

Among such misbranded textile fiber products, but not limited thereto, were ladies' dresses labeled as "100% Rayon" whereas, in truth and in fact, such products contained substantially different amount of fibers other than as represented.

PAR. 4. Certain of the textile fiber products were misbranded by respondents in that they were not stamped, tagged, labeled, or otherwise identified to show each element of information required to be disclosed by Section 4(b) of the Textile Fiber Products

Complaint

76 F.T.C.

Identification Act, and in the manner and form prescribed by the Rules and Regulations promulgated under said Act.

Among such misbranded textile fiber products, but not limited thereto, were ladies' dresses which failed to disclose the true generic names of the fibers present.

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 of the Textile Fiber Products Identification Act and Rule 39 of the Regulations promulgated thereunder.

PAR. 6. The acts and practices of respondents, as set forth above in Paragraphs Three, Four and Five 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 methods of competition and unfair and deceptive acts and practices in commerce, under 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 respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the

public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Sportpiper of Miami, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida. The said corporation is currently inactive but has not been dissolved.

Respondent Louis Goldleaf is an officer of said corporation and his address is 1745 James Avenue, Miami Beach, Florida.

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

#### ORDER

*It is ordered,* That respondents Sportpiper of Miami, Inc., a corporation, and its officers, and Louis Goldleaf, 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 any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has 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 product, whether in its 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 a stamp, tag, label or other means of identification to each such product showing in a clear,

Decision and Order

76 F.T.C.

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 proper records showing the fiber content of the textile fiber products manufactured by said respondents, as required by Section 6 of the Textile Fiber Products Identification Act and Rule 39 of the Regulations promulgated thereunder.

*It is further ordered,* That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

*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.

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IN THE MATTER OF

MUTUAL CREDIT BUREAU, INC., ET AL.

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

*Docket C-1595. Complaint, Oct. 10, 1969—Decision, Oct. 10, 1969*

Consent order requiring a Cleveland, Ohio, debt collection agency to cease using the term "Credit Bureau" in its corporate name, misrepresenting that it operates a special audit division, using deceptive fee schedules, falsely guaranteeing its services, using deceptive form letters to obtain information on alleged debtors, misrepresenting the size and geographical extent of its business, and threatening legal action against allegedly delinquent debtors.

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 Mutual Credit Brueau, Inc., a corporation, and Kenneth G. Kirchenbauer, and Albert DiMarco, individually and as officers and directors 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

448

## Complaint

public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Mutual Credit Bureau, Inc., 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 2800 Euclid Avenue, in the city of Cleveland, State of Ohio.

Respondents Kenneth G. Kirchenbauer and Albert DiMarco are individuals and are officers and directors 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. 2. Respondents are now and for some time last past have been engaged in the business of operating a collection agency under the name of Mutual Credit Bureau, Inc.

Respondents solicit and receive accounts for collection from business, professional and other people located in Ohio and in other States. In carrying out their aforesaid collection business, respondents have engaged, and are now engaged, in extensive commercial intercourse in commerce among and between the various States of the United States, including the transmission and receipt of monies, checks, collection letters, forms, contracts and other written instruments.

In carrying out their aforesaid collection business, respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 3. In the course and conduct of their business, and at all times mentioned herein, respondents have been in substantial competition, in commerce, with other corporations, firms, and individuals engaged in the business of collecting alleged delinquent accounts.

PAR. 4. Through the use of the words "Credit Bureau" as part of their corporate name, separately and in conjunction with other statements and representations said respondents represented, and now represent, directly or by implication, that the corporate respondent is engaged in gathering, recording and disseminating favorable as well as unfavorable information relative to the credit worthiness, financial responsibility, paying habits and character of individuals, firms, corporations, and any other legal entity

Complaint

76 F.T.C.

being considered for credit extension, so that a prospective creditor may be able to make a sound decision in the extension of credit.

PAR. 5. In truth and in fact, the corporate respondent is not engaged in gathering, recording and disseminating favorable information relative to the credit worthiness, financial responsibility, paying habits and character of individuals, firms, corporations and any other legal entity being considered for credit extension. In a limited number of instances, respondents may furnish a client upon request, unfavorable credit information about an alleged debtor when such information is contained in respondents' files, or will verify information furnished a client by a credit applicant when such information is contained in respondents' files.

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

PAR. 6. Respondents, in the course and conduct of their aforesaid business, and for the purpose of inducing individuals, firms and corporations to assign accounts to the respondents for collection, as well as in aiding in making collections from alleged debtors, have made certain statements and representations, directly or by implication, with respect to their business methods, fees, and the size and extent of their business.

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

1. Professional Audit System, and Professional Audit System, Division of Mutual Credit Bureau, Inc.
2. Complete Credit and Collection Service.
3. No Collection—No Charge, and No Collection—No Fee.
4. The Professional Audit System is Guaranteed.
5. Associate Offices Everywhere, and our associate.

PAR. 7. By and through the use of the aforesaid statements and representations set forth in Paragraph Six hereof, and others of similar import or meaning, but not expressly set out herein, respondents represented, and now represent, directly or by implication, that:

1. Respondents audit accounts of creditors to determine if said accounts are in arrears.
2. The business of respondents has a separate "Professional Audit System" department; and they have a specially staffed, established and operated auditing division.
3. Respondents offer and perform all types of credit and collection services for clients or prospective clients.

448

## Complaint

4. Respondents make no charges or fees on any account they do not collect on behalf of their client.

5. Respondents "Professional Audit System" is guaranteed without qualification or limitation.

6. The business of respondents is nationwide in scope by being affiliated, associated or in some manner connected with collection agencies over the entire United States.

PAR. 8. In truth and in fact:

1. Respondents do not in a substantial number of instances audit accounts of creditors to determine if said accounts are in arrears.

2. The "Professional Audit System" is not a separate division of respondents' business, specially staffed, established and operated to audit accounts of creditors. On the contrary, the "Professional Audit System" is merely a precollection service which respondents sell to creditors to enable creditors to protect their goodwill while collecting or attempting to collect alleged delinquent accounts and involves the sending of form letters to alleged debtors by respondents requesting that payment be made directly to the creditor.

3. Respondents do not offer and perform all types of credit reporting and collection services; but, with minor additions, perform only routine collection functions.

4. Respondents do make charges on accounts they do not collect in instances where respondents utilize interest monies collected on some accounts to help defray the cost of attempting to collect uncollectable accounts, and respondents charge fifty percent (50%) as a fee on accounts forwarded to other collection agencies or attorneys. The said additional amounts are not set forth in fee schedules used by respondents.

5. Respondents "Professional Audit System" is not guaranteed without qualification or limitation, and the nature, extent, identity, and the manner in which respondents will perform is not clearly and conspicuously disclosed in immediate connection with the term "Guaranteed."

6. The business of respondents is not nationwide in scope and is not affiliated, associated or in any manner connected with collection agencies throughout the entire United States, but, on the contrary, respondents, through the purchase and use of a directory of collection agencies and attorneys, merely forward accounts out of State to collection agencies and attorneys listed in said directory.

Complaint

76 F.T.C.

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

PAR. 9. In the course and conduct of their collection business, and for the purpose of inducing the payment of alleged delinquent accounts, respondents transmit and mail, and cause to be transmitted and mailed, to alleged delinquent debtors, and to third parties, various form letters, demands for payment, requests for information, and other printed material.

Typical and illustrative of respondents' forms, but not all inclusive thereof, are the following:

1. The above account is due and payable. We have full authority to make collection in any fashion that is allowable by the laws of the state.

2. Be advised. Our client has instructed this office to refer the matter to an attorney on \_\_\_\_\_ with instructions to start immediate legal proceedings and take any action necessary to enforce collection if payment in full is not received by \_\_\_\_\_.

3. Unless we receive your check or money order for \$\_\_\_\_\_ by \_\_\_\_\_ we are going to recommend our client return the matter to his attorney to institute other proceedings to enforce collection.

4. Prior to forwarding this account to our representative in your city for legal action, we are drawing on your account in the amount stated above.

It is suggested that if you wish to avoid presentment of this draft to your bank, you wire us to the effect that payment is being forwarded at once.

5. Mr./Mrs. \_\_\_\_\_ has applied for credit with one of our members and gave your name as a reference.

6. Would you kindly furnish us with information on the employee listed below.

PAR. 10. By and through the use of the aforesaid forms and the statements and representations set forth in Paragraph Nine hereof and others of similar import and meaning, but not expressly set out herein, respondents represented, and now represent, directly or by implication, that:

1. Respondents have been given authority by the creditor to initiate legal action to collect an alleged delinquent account.

2. Respondents have been instructed by the creditor to refer the alleged delinquent account to an attorney in order to institute legal proceedings to enforce collection of said account unless the alleged debtor pays in full by a certain, specified date.

3. Unless payment is received by respondents from an alleged debtor by a certain, specified date, respondents will recommend to the creditor that the creditor refer the alleged delinquent account to his attorney to institute legal proceedings to enforce collection.

4. Respondents will forward a sight draft to the alleged debtor's bank and that respondents will draw on the alleged debtor's bank account to effect payment of the alleged delinquent account.

5. An alleged debtor has applied for credit and gave the name of the recipient of the form as a reference.

6. Respondents are requesting certain information from an alleged debtor's employer or former employer to determine his employment status and address.

PAR. 11. In truth and in fact:

1. Respondents have not been given authority by the creditor to initiate legal action to enforce the collection of an alleged debt at the time they mail form letters which represent they do have such authority.

2. Respondents, at the time they send a form letter stating they have been so instructed, have not been instructed by a creditor to refer an alleged delinquent account to an attorney in order to institute legal proceedings to enforce collection of an account if an alleged debtor fails to pay the account by a certain specified date.

3. In many instances respondents do not recommend to the creditor that he refer an alleged delinquent account to an attorney to institute legal proceedings to enforce collection of said account if the alleged debtor fails to pay the account by a certain specified date.

4. Respondents do not forward a sight draft to the bank of an alleged debtor and draw against an alleged debtor's bank account to effect payment of an alleged delinquent account.

5. In instances where respondents mail a form letter to a third party which represents that an alleged debtor has applied for credit and has given the third party's name as a reference, the alleged debtor has not applied for credit and thus has not given the third party's name as a reference. On the contrary, respondents use said form to obtain information about the alleged debtor without revealing that the purpose of the inquiry is to assist respondents in the collection of an alleged delinquent account.

6. In instances when respondents mail a form to the employer or former employer of an alleged debtor requesting information about the alleged debtor, respondents do not reveal that the true purpose of the inquiry and the obtaining of information sought therein is to assist respondents in the collection of an alleged delinquent account.

Complaint

76 F.T.C.

Therefore, the statements and representations set forth in Paragraphs Nine and Ten hereof were, and are, false, misleading and deceptive.

PAR. 12. 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 public, including alleged debtors, prospective clients and clients (creditors), into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of respondents' services by creditors and the payment of accounts by alleged debtors, by reason of such erroneous and mistaken belief.

PAR. 13. 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 respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the

## Decision and Order

public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Mutual Credit Bureau, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its office and principal place of business located at 2800 Euclid Avenue, city of Cleveland, State of Ohio.

Respondents Kenneth G. Kirchenbauer and Albert DiMarco are officers and directors of said corporation and their principal office and place of business is located at the above stated address.

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 Mutual Credit Bureau, Inc., a corporation, and its officers, and Kenneth G. Kirchenbauer and Albert DiMarco, individually and as officers and directors of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the collection of accounts or attempts to collect accounts or the advertising, offering for sale, sale or distribution of any service in connection with or printed matter in connection with the collection of accounts, attempts to collect accounts, the solicitation of accounts for collection or contracts therefor, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the term "Credit Bureau," or any other words or terms of similar import or meaning, in respondents' corporate or trade name, or representing, in any manner, that respondents are a credit bureau or performing the functions of a credit bureau, unless respondents regularly engage in gathering, recording and disseminating favorable as well as unfavorable information relative to the credit worthiness, financial responsibility, paying habits and character of individuals, firms, corporations, or any other legal entity being considered for credit extension so that a prospective creditor may be able to make a sound decision in the extension of credit.

Decision and Order

76 F.T.C.

2. Using the term "Professional Audit System" or any other words or terms of similar import or meaning in describing or referring to respondents' pre-collection service.

3. Representing, directly or by implication, that respondents have an Audit Division which is specially staffed, established and operated to audit accounts of creditors, or representing that respondents have any other division or organizational unit specially staffed, established and operated to perform any other functions in connection with respondents' business, unless in every instance, respondents do have such divisions or organizational units which are specially staffed, established and operated to audit such accounts or perform other functions in connection with the operation of respondents' business.

4. Representing, directly or by implication, that respondents offer a complete credit and collection service, or misrepresenting, in any manner, the nature or extent of credit and collection services offered by respondents.

5. Representing, directly or by implication, that no charges or fees will be made on any accounts not collected unless in every instance respondents do not assess a charge or fee of any kind and in any manner whatsoever.

6. Using fee schedules which do not clearly and conspicuously disclose thereon all possible fees, charges and rates respondents can assess for the collection of accounts, or misrepresenting, in any manner, the fees and charges assessed by respondents.

7. Representing, directly or by implication, that any of respondents' services or systems are guaranteed without clearly and conspicuously disclosing in immediate connection therewith, the nature and extent of the guarantee, the manner in which the guarantor will perform, and the identity of the guarantor.

8. Representing, directly or by implication, that respondents' business is nationwide in scope, or misrepresenting, in any manner, the extent, size or services of respondents.

9. Representing, directly or by implication, that respondents have been instructed or given the authority to initiate legal action, or will recommend to the creditor the institution of legal proceedings to enforce collection of an alleged delinquent account if the alleged debtor fails to pay said account, or fails to respond to requests for payment or cooperation,

448

## Decision and Order

unless in every instance, respondents have been instructed or given authority to initiate legal action, and do recommend to the creditor the institution of legal action to enforce collection of an alleged delinquent account.

10. Representing, directly or by implication, that respondents will send a sight draft to an alleged debtor's bank.

11. Using any form, questionnaire or other material, printed or written, which does not clearly and conspicuously reveal that the purpose for which the information is requested is that of obtaining information concerning alleged debtors or for the collection of, or the attempt to collect, alleged delinquent accounts.

*It is further ordered,* That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

*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.

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IN THE MATTER OF

UNITED MANUFACTURING CO., ET AL.

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

*Docket C-1596. Complaint, Oct. 10, 1969—Decision, Oct. 10, 1969*

Consent order requiring a Marlboro, Mass., manufacturer of men's and boys' wearing apparel to cease misbranding its wool products.

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that United Manufacturing Co., a partnership, and Lewis B. Freedman and Jackson D. Seifer, individually and as copartners trading as United Manufacturing Co., hereinafter referred to as respondents, have violated the pro-

Complaint

76 F.T.C.

visions of said Acts and the Rules and Regulations promulgated under 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. Respondent United Manufacturing Co. is a partnership. The said partnership is organized, exists and does business in the State of Massachusetts with its office and principal place of business located at 36 Hudson Street, Marlboro, Massachusetts.

Individual respondents Lewis B. Freedman and Jackson D. Seifer are copartners in said partnership. They formulate, direct and control the acts, practices and policies of said partnership. Their office and principal place of business is the same as that of the partnership.

Respondents are engaged in the manufacturing of men's and boys' apparel.

PAR. 2. Respondents, now and for some time last past, 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 Wool Products Labeling Act of 1939, wool products as "wool product" is defined therein.

PAR. 3. Certain of said wool products were misbranded by 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 stamped, tagged, labeled or otherwise identified with respect to the character and amount of the constituent fibers contained therein.

Among such misbranded wool products but not limited thereto were certain athletic jackets which were stamped, tagged, labeled or otherwise identified by respondents as containing "Outer Shell 90% Reprocessed Wool, 10% Other Fibers" whereas in truth and in fact said athletic jackets contained substantially different fibers and amounts of fibers than as represented.

PAR. 4. 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.

457

## Complaint

Among such misbranded wool products, but not limited thereto were wool products, namely men's and boys' jackets, with labels on or affixed thereto, which failed to disclose the percentage of total fiber weight of said wool products, exclusive of ornamentation, not exceeding 5 per centum of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool when said percentage by weight of such fiber was 5 per centum or more; and (5) the aggregate of all other fibers.

Also among such misbranded wool products, but not limited thereto, were wool products without labels.

PAR. 5. The acts and practices of the respondents as set forth above 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 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 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 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 respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further

## Decision and Order

76 F.T.C.

conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent United Manufacturing Co. is a partnership. The said partnership is organized, exists and does business in the State of Massachusetts. Said firm is located at 36 Hudson Street, Marlboro, Massachusetts.

Respondents Lewis B. Freedman and Jackson D. Seifer are co-partners in said partnership.

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 United Manufacturing Co. a partnership, and Lewis B. Freedman and Jackson D. Seifer, individually and as copartners doing business as United Manufacturing Co., or under any other name, 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 fabrics or other wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

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

2. Failing to securely affix to or placed 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.

---

101

Complaint

## IN THE MATTER OF

**MRS. MARY BLACK TRADING AS AKRON ARTIFICIAL  
FLOWERS AND SUPPLIES**CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION  
OF THE FEDERAL TRADE COMMISSION AND THE FLAMMABLE  
FABRICS ACTS*Docket C-1597. Complaint, Oct. 10, 1969—Decision, Oct. 10, 1969*

Consent order requiring an Akron, Ohio, seller of various consumer goods to cease distributing fabric items which fail to conform to the standards issued under the Flammable Fabrics Act, and to file a special report on the disposition of her stock of such items.

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Mrs. Mary Black, an individual trading as Akron Artificial Flowers and Supplies, herein-after referred to as respondent, has violated the provisions of said Acts and Rules and Regulations promulgated under the Flammable Fabrics Act, as amended, 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 Mrs. Mary Black is an individual trading as Akron Artificial Flowers and Supplies. She is engaged in the sale of various consumer goods, including, but not limited to, wood fiber chips. The business address of the respondent is 1213 Kohler Street, Akron, Ohio.

PAR. 2. Respondent is now and some time last past has been engaged in the sale and offering for sale, in commerce, and in the importation into the United States, and has introduced, delivered for introduction, transported and caused to be transported in commerce, and has sold or delivered after sale or shipment in commerce, fabrics, as the terms "commerce" and "fabric" are defined in the Flammable Fabrics Act, as amended, which fabrics failed to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the Flammable Fabrics Act, as amended.

Complaint

76 F.T.C.

Among such fabrics mentioned hereinabove were wood fiber chips.

PAR. 3. The aforesaid acts and practices of respondent were, and are in violation of the Flammable Fabrics Act, as amended, and the Rules and Regulations promulgated thereunder, and constituted, and now 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 respondent named in the caption hereof, and the respondent 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 Flammable Fabrics Act, as amended; and

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

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent had violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent is an individual trading as Akron Artificial Flowers and Supplies. She is engaged in the sale of various consumer goods and her address is 1213 Kohler Street, Akron, Ohio.

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 the respondent, Mrs. Mary Black, individually and trading as Akron Artificial Flowers and Supplies, or under any other name, and respondent's representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any fabric as "commerce" and "fabric" are defined in the Flammable Fabrics Act, as amended, which fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

*It is further ordered,* That the respondent herein shall within ten (10) days after service upon her of this order file with the Commission an interim special report in writing setting forth the respondent's intention as to compliance with this order. This interim special report shall also advise the Commission fully and specifically concerning the identity of the fabric which gave rise to the complaint, (1) the amount of such fabric in inventory, (2) any action taken to notify customers of the flammability of such fabric and the results thereof and (3) any disposition of such fabric since October 2, 1968. Such report shall further inform the Commission whether respondent has in inventory any fabric, product or related material having a plain surface and made of silk, rayon or cotton or combinations thereof in a weight of two ounces or less per square yard or made of cotton or rayon or combinations thereof with a raised fiber surface. Respondent will submit samples of any such fabric, product or related material with this report.

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

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Complaint

76 F.T.C.

## IN THE MATTER OF

JACK EZELL, ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE  
FEDERAL TRADE COMMISSION ACT*Docket C-1598. Complaint, Oct. 23, 1969—Decision, Oct. 23, 1969*

Consent order requiring an individual associated with a Washington, D.C., school for detectives to cease misrepresenting employment opportunities, exaggerating the size and quality of the school's instructional staff or its facilities or equipment, using false testimonials, failing to reveal all terms of the school's installment contracts, deceptively inducing the signing of such contracts, and seeking to enforce any contract obtained through misrepresentation.

## 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 Jack Ezell also known as Jack Young and as Thomas A. Ezelle, individually and as a former employee of Eastern Detective Academy, Inc., 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. Eastern Detective Academy, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the District of Columbia, with its principal office and place of business located at 724 14th Street, NW., in Washington, D.C.

Respondent Jack Ezell also known as Jack Young and as Thomas A. Ezelle, is an individual and was formerly an employee and director of said corporation who acted in the capacity of manager. Prior to August 1967, he participated in the formulation, direction and control of the acts and practices of the said corporation, including the acts and practices hereinafter set forth. His business address was the same as that of said corporation, and currently is 1343 H Street, NW., Washington, D.C., where he participates in the operation of a detective school for another company.

464

## Complaint

PAR. 2. The respondent engaged in the operation of a school, offering a course of instruction to those seeking employment as private or public detectives, investigators or agents.

PAR. 3. In the course and conduct of the aforesaid business, and for the purpose of inducing enrollment in the course of instruction, the respondent engaged in the advertising of the course of instruction in newspapers of interstate circulation. In the further course and conduct of the business, the respondent from offices in the District of Columbia, solicited students by means of advertising brochures mailed to persons located in various other States of the United States; and the respondent maintained, and at all times mentioned herein has maintained, a substantial course of trade in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of the aforesaid business, and for the purpose of inducing enrollment in the course of instruction, the respondent made numerous statements and representations in advertisements inserted in newspapers and in promotional material, of which the following are typical and illustrative, but not all inclusive thereof:

TRAINED UNDERCOVER  
PEOPLE ARE ALWAYS IN DEMAND

\* \* \* \* \*

Male and Female Undercover  
Agents in Demand Now

\* \* \* \* \*

Free Job Placement Service for  
Advanced Students & Graduates

\* \* \* \* \*

Our Placement Service has placed several hundred persons in investigative work in just the past year.

\* \* \* \* \*

MEN & WOMEN  
EXCITING BIG PAY JOBS OPEN FOR  
PRIVATE DETECTIVES  
IF YOU ARE

\* A PERSON OF GOOD CHARACTER

\* WILLING TO TAKE TRAINING IN YOUR SPARE TIME

\* \* \* \* \*

Thank you for your inquiry regarding our Training Program Leading to Private Detective, Undercover Investigator and General Law Enforcement Officer.

Complaint

76 F.T.C.

PAR. 5. By and through the use of the above quoted statements and representations, and others of similar import and meaning but not expressly set out herein, separately and in connection with the oral statements and representations of employees, the respondent represented, directly or by implication, that:

1. There is a great demand for graduates of the aforementioned course as detectives, investigators, undercover agents and in other similar positions and employment in such positions is available upon the completion of the aforementioned course of instruction.
2. Several hundred persons who attended the aforementioned course have obtained employment in investigative work within one year.
3. Completion of the aforementioned course of instruction qualifies persons to be detectives, investigators, undercover agents, or for employment in other similar positions at commensurate wages.
4. A placement service is provided which places a significant number of advance students or graduates of the aforementioned course in positions for which they have been trained through the course.

PAR. 6. In truth and in fact:

1. There was no significant demand for graduates of the aforementioned course, whose training was limited to completion of the course of instruction, as detectives, investigators, undercover agents or in other similar positions and employment in such positions was not ordinarily available upon completion of the aforementioned course of instruction to persons with limited practical experience.
2. In no year did several hundred persons who attended the aforementioned course obtain employment in investigative work or in other positions for which they were trained through the aforementioned course. The school neither enrolled nor graduated several hundred students during any one year.
3. Completion of the aforementioned course of instruction did not qualify persons to be detectives, investigators, undercover agents or for employment in other similar positions at commensurate wages. Employment in the aforementioned positions is conditioned upon the aptitude and practical experience of the individual rather than the training afforded by the aforementioned course of instruction and a substantial number of graduates from

464

## Complaint

the course were unable to obtain positions which paid wages commensurate with those paid individuals in the aforementioned positions.

4. A placement service was not provided which placed a significant number of advance students or graduates of the aforementioned course in positions for which they had been trained through the course.

Therefore, the statements and representations as set forth in Paragraphs Four and Five hereof, and others of similar import and meaning but not expressly set out herein, were and are false, misleading and deceptive.

PAR. 7. In the further course and conduct of the business, as aforesaid, and for the purpose of inducing the sale of the course of instruction, the respondent has made numerous statements and representations by means of brochures and promotional materials and by oral statements in which the respondent represented, directly or by implication, that:

1. The school maintains a staff of seventeen instructors qualified by practical experience or training in the Army Security Agency, District of Columbia Courts, U.S. Supreme Court, U.S. Air Force, Office of Special Investigations, U.S. Army Counter-Intelligence School, U.S. Signal Corps Radio Communications, Constabulary of Great Britain, Illinois State Security Forces, Maryland State Internal Security Police, Armed Forces Institute of Pathology, Washington, D.C. Metropolitan Police-Detective Division, Department of the Provost Marshal General, United States Army-Criminal Investigation Division, Federal Bureau of Investigation, and Detective Bureau-New York City Police.

2. Students will be trained in the firing of handguns on the school's shooting range and that the school has student training equipment such as polygraph instruments which the students will be trained to operate through practical exercise.

3. Each of the testimonial letters, which were displayed or enclosed with the school's brochure, from graduates of the course and businesses which have employed graduates of the course were unsolicited and unbiased testimonials as to the value of the course.

PAR. 8. In truth and in fact:

1. The school did not maintain a staff of seventeen instructors qualified by practical experience or training as represented. The number of instructors maintained by the school was significantly

Complaint

76 F.T.C.

less than seventeen and the school's staff of instructors was not qualified by practical experience or training in all the areas represented by respondent. In a number of instances, instructors so qualified had terminated their employment with the school a number of years prior to such representations. In other instances, the aforementioned representations were without foundation and therefore false.

2. Students were not trained in the firing of handguns on a shooting range and the school did not have student training equipment such as polygraph instruments which the students were trained to operate through practical exercise. The school did not operate a shooting range and the only firing done by the students during the course of instruction, was the firing of a pistol into an enclosed metal box. The only instruction the students received on polygraph instruments was in the form of a lecture at which time a rented or borrowed polygraph machine was brought into the classroom but was not made available for student use.

3. In a number of instances, the testimonial letters from graduates of the course and businesses which have employed graduates of the course which were displayed or enclosed with the school's brochure, were neither unsolicited nor unbiased. In some instances, these letters were written by the school's employees and in other instances the writing of said letters was induced through bargaining.

Therefore the statements and representations as set forth in Paragraph Seven hereof, and others of similar import and meaning but not expressly set out herein, were and are false, misleading and deceptive.

PAR. 9. In the further course and conduct of the aforesaid business, the respondent regularly obtained potential students' signatures on installment payment contracts through failing to disclose the nature of the instruments and by falsely representing that such instruments were non-binding enrollment applications or that the classes were paid for on a pay as you go basis and the prospective students could cancel their enrollment at any time that they chose to do so. Thereafter, when these prospective students failed to attend the course and make payments under the contract, the respondent systematically brought legal actions and obtained judgments against the prospective students or assigned the contracts to a collection agency for the bringing of legal actions and the obtaining of judgments against the prospective students.

464

## Complaint

Therefore, such statements, representations and practices constitute acts and practices which were and are unfair, misleading and deceptive.

PAR. 10. In the course and conduct of the aforesaid business, and at all times mentioned herein, the respondent has been engaged in substantial competition, in commerce, with corporations, firms and individuals engaged in the sale of courses of instruction to those seeking employment as private or public detectives, investigators or agents, of the same general kind and nature as that sold by respondent.

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

PAR. 12. The aforesaid acts and practices of the respondent, as herein alleged, were all to the prejudice and injury of the public and of respondent's competitors and constituted 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 the 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 alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having considered the agreement and having accepted same, and the agreement containing consent order hav-

Decision and Order

76 F.T.C.

ing thereupon been placed on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Jack Ezell, also known as Jack Young and as Thomas A. Ezelle, is an individual and was formerly an employee and director of Eastern Detective Academy, Inc., who acted in the capacity of manager. His former business address was the same as that of said corporation, namely, 724 14th Street, NW., Washington, D.C. His current business address is 1343 H Street, NW., Washington, D.C., where he participates in the operation of a detective school for another company.
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 Jack Ezell also known as Jack Young and as Thomas A. Ezelle, individually and as a former employee of Eastern Detective Academy, Inc., and respondent's agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of any course of instruction or any other service or product, in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that there is a great demand for individuals who have completed any course of instruction as detectives, investigators, undercover agents or in other similar positions, or that the employment in such positions is available upon completion of any course of instruction unless such are the facts; or misrepresenting, in any manner, the demand or opportunities for employment of individuals who complete any course of instruction.
2. Representing, directly or by implication, that several hundred persons who attended any course obtained employment in investigative work or in any other position within one year; or otherwise misrepresenting the number of per-

sons attending any course who have obtained employment through the training afforded, or the nature of such employment.

3. Representing, directly or by implication, that persons who complete any course of instruction are thereby qualified for employment as detectives, investigators, undercover agents or in any other similar position unless such are the facts; or otherwise misrepresenting the positions for which the graduates of any course will qualify.

4. Representing, directly or by implication, that persons who complete any course of instruction will thereby be qualified for employment at wages commensurate with those paid detectives, investigators or undercover agents unless such are the facts; or otherwise misrepresenting the wages or compensation available to graduates of any course of instruction.

5. Representing, directly or by implication, that respondent provides a placement service which places a significant number of graduates or students in positions for which they have been trained by respondent unless such are the facts; or misrepresenting, in any manner, capabilities or facilities for assisting graduates or students of any course in finding employment, or the assistance actually afforded graduates in obtaining employment.

6. Representing, directly or by implication, that respondent maintains a staff of seventeen instructors, or that the staff of instructors maintained by respondent has certain experience, training or qualifications which they do not have; or misrepresenting, in any manner, the number of instructors maintained or their experience, training or qualifications.

7. Representing, directly or by implication, that respondent operates a shooting range or has polygraph instruments unless such are the facts; or misrepresenting, in any manner, the facilities or equipment which respondent has and makes available for the training of students.

8. Misrepresenting that students will receive training in the firing of handguns on a shooting range or that students will receive practical training in the use of polygraph instruments; or misrepresenting, in any manner, the nature or extent of training students will receive.

Decision and Order

76 F.T.C.

9. Misrepresenting that graduates of any course, or businesses which have employed graduates of any course, have written unsolicited or unbiased testimonials.

10. Failing to reveal, disclose or otherwise inform prospective customers, in a manner that is clearly understood by them, of the non-cancellable nature and of all terms and conditions of any installment contract or other instrument of indebtedness to be signed by any customer.

11. Inducing or causing customers or prospective customers to execute installment contracts or any other instruments of indebtedness by falsely representing that such contracts, or other instruments are non-binding enrollment agreements or that such contracts or other instruments are cancellable at the discretion of the prospective customers; or otherwise inducing or causing customers or prospective customers to execute installment contracts or any other instruments by misrepresenting the true nature or effect of such documents.

12. Seeking to enforce or obtain a judgment on any contract or other instrument executed after the final date of this order between respondent and any party, or the transferring of any such contract or other instrument to a third party for the purpose of enforcing or obtaining a judgment on said contract or instrument, where the respondent or his employees orally misrepresented the nature of the terms of said contract or instrument at the time prior to the time the contract or instrument was signed.

13. Failing to deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the sale of respondent's courses or services, and failing to secure from each such salesman or other person a signed statement acknowledging receipt of said order.

*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.

---

473

## Complaint

## IN THE MATTER OF

MARVEL QUILTING COMPANY, INC., 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-1599. Complaint, Oct. 30, 1969—Decision, Oct. 30, 1969*

Consent order requiring a Brooklyn, N.Y., manufacturer of quilting and other textile articles to cease misbranding and falsely invoicing and advertising its textile fiber products.

## 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 Marvel Quilting Company, Inc., a corporation, and Jack Goldfarb and Martin Olsik, individually and as officers of said corporation, and as copartners trading as Marvel Quilting Company, 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 Marvel Quilting Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its office and principal place of business located at 3621 Thirteenth Avenue, Brooklyn, New York. Said corporation also maintains a place of business located at 1001 Industrial Park, Piedmont, Alabama.

Individual respondents Jack Goldfarb and Martin Olsik are officers of said corporate respondent. They are also copartners trading as Marvel Quilting Company. They formulate, direct and control the acts, practices and policies of said corporation and of said partnership. Their address and the address of the partnership and the principal place of business of each is the same as that of said corporation.

Respondents are manufacturers of textile fiber products.

Complaint

76 F.T.C.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the introduction, delivery for introduction, manufacture for introduction, sale, advertising, and offering for sale, in commerce, and in the transportation or causing to be transported 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 by respondents 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 the constituent fibers contained therein.

Among such misbranded textile fiber products, but not limited thereto, were textile fiber products, namely quilted materials, with labels on or affixed thereto which set forth the fiber content as "50% acrylic, 50% undetermined fabric," whereas, in truth and in fact, said products contained different fibers and amounts of fibers than represented.

PAR. 4. Certain of the textile fiber products were misbranded by respondents in that they were not stamped, tagged, labeled, or otherwise identified to show each element of information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act, and in the manner and form prescribed by the Rules and Regulations promulgated under said Act.

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

- (1) To disclose the true percentage of the fibers present by weight; and
- (2) To disclose the true generic names of the fibers present.

PAR. 5. The acts and practices of respondents, as set forth above were, and are, in violation of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated

473

## Complaint

thereunder, and constituted, and now constitute, unfair methods of competition and unfair and deceptive acts or practices, in commerce, under 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 respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Proposed respondent Marvel Quilting Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 3621 Thirteenth Avenue, Brooklyn, New York. Said corporation also maintains a place of business which is located at 1001 Industrial Park, Piedmont, Alabama.

Proposed respondents Jack Goldfarb and Martin Olsik are officers of proposed corporate respondent. They are also copartners trading as Marvel Quilting Company. They formulate, direct and

Decision and Order

76 F.T.C.

control the acts, practices and policies of said corporation and of said partnership. Their address and the address of the partnership 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 Marvel Quilting Company, Inc., a corporation, and its officers, and Jack Goldfarb and Martin Olt-sik, individually and as officers of said corporation, and as copartners, trading as Marvel Quilting Company, 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 any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product, which has 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 product, whether in its 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 misbranding textile fiber products by:

1. Falsely or deceptively stamping, tagging, labeling, invoicing, advertising or otherwise identifying any textile fiber product as to the name or amount of constituent fibers contained therein.
2. Failing to affix labels to each such product 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.

*It is further ordered.* That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

*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.

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IN THE MATTER OF

MONMOUTH MERCHANDISING CO., INC., ET AL.

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

*Docket C-1600. Complaint, Oct. 30, 1969—Decision, Oct. 30, 1969*

Consent order requiring a Freehold, N.J., manufacturer of saddle and utility blankets to cease misbranding and falsely invoicing its wool products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Monmouth Merchandising Co., Inc., a corporation, and Nathan Koenig, William Kaplan and Irving Kaplan, 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 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. Respondent Monmouth Merchandising Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey with its office and principal place of business located at 231 Throckmorton Street, Freehold, New Jersey.

Respondents Nathan Koenig, William Kaplan and Irving Kaplan are officers of said corporation. They formulate, direct and control the policies, acts and practices of said corporation, and their address is the same as that of the corporate respondent.

Respondents are engaged in business as manufacturers of sad-