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for a period of one (1) year and thereafter annually at the end of the calendar year for a period of nine (9) years file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order. This order shall remain in effect for twenty (20) years from its effective date.

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It is further ordered, That no provision contained in this order shall prohibit respondent from completely divesting itself of any interests in any leased station which is required by a Final Judgment in *United States v. Phillips Petroleum Company and Tidewater Oil Company*, No. 66-1154 (C.D. Cal., 1966), and that immediately after the effective date of this order only Paragraphs 2, 3, 4 and 5 of Part II of this order and Part IV of this order shall apply to the respondent's lessee dealers whose leased premises are subject to the Court's jurisdiction in the aforementioned case; *Provided, however,* That in the event respondent is permitted, following entry of a Final Judgment in the aforesaid case, to retain any of the premises presently leased to lessee dealers, thereupon after ninety (90) days all the other provisions of this order shall apply in all respects to such retained, leased premises; *Provided, further,* That no provision of this order shall be binding upon or apply to any of the leased premises of respondent sold or divested pursuant to a Final Judgment in the aforesaid case.

IN THE MATTER OF

TOMORROW'S HERITAGE, INC., TRADING AS HERITAGE, ET
AL.

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

Docket C-2619. Complaint, Dec. 31, 1974—Decision, Dec. 31, 1974

Consent order requiring a Beverly Hills, Calif., seller and distributor of photograph albums, coupon books and certificates, sold in connection with photo enlargement and studio portrait plans, among other things to cease misrepresenting the business relationship between respondents and others; misrepresenting the usual and customary prices for its products or services; failing to maintain adequate records; misrepresenting special or limited offers; misrepresenting guarantees and failing to make refunds on a money-back guarantee.

Appearances

For the Commission: *Robert H. Wyman.*

For the respondents: *John H. Lavelly, Jr., Schiff, Hirsch, Levine, Burk & Schreiber, Beverly Hills, Calif.*

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 Tomorrow's Heritage, Inc., a corporation, doing business as Heritage, and Ben H. Garfinkel and Robert R. Silvers, individually and as officers of said corporation, hereinafter sometimes 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 Tomorrow's Heritage, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 170 North Robertson Boulevard, Beverly Hills, Calif.

Respondents Ben H. Garfinkel and Robert R. Silvers are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent including the acts and practices hereinafter set forth. Their addresses are 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 photograph albums, coupon books and certificates, sold in connection with photograph enlargement plans, studio portrait plans, and combinations thereof.

Respondents' photograph enlargement plan consists of a photograph album and a coupon book containing from 50 to 125 coupons entitling the purchaser to one color or toned enlargement of negatives for each coupon plus one dollar. Respondents' studio portrait plan consists of a photograph album and certificates entitling the purchaser up to 16 studio portraits, to be taken over a period of years equal to one-half the total number of portraits allowed at the rate of 2 portraits each year at designated local photograph studios under contract with respondents. Respondents also sell, on occasion, a combination of the enlargement plan and studio portrait plan, varying both as to price and as to the number of enlargements or portraits the purchaser is entitled.

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PAR. 3. In the course and conduct of their aforesaid business, and at all times mentioned herein, respondents have been, and are now, in substantial competition, in commerce, with corporations, firms, and individuals, in the sale of products and services of the same general kind and nature as those sold by respondents and in the collection of delinquent accounts.

Count I

Alleging violations of Section 5 of the Federal Trade Commission Act, the allegations of Paragraphs One, Two, and Three hereof are incorporated by reference in Count I as if fully set forth verbatim.

PAR. 4. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused, the aforesaid photograph albums, coupon books and certificates, when sold, to be shipped from their place of business in the State of California to purchasers thereof, located in various other States of the United States. In some instances, respondents cause, and have caused, said albums to be shipped from the supplier or manufacturer thereof to purchasers thereof, located in various States of the United States. Respondents also cause, and have caused, enlargements to be mailed from their processing and enlarging agent to purchasers of respondents' enlargement plan located in various other States of the United States. Respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. In the course and conduct of their aforesaid business, and for the purpose of inducing, and which have induced, the purchase of their photograph albums, coupon books and certificates, respondents have made, and are now making, numerous statements and representations, directly and by implication, in oral sales presentations made by their salesmen to prospective purchasers. Some of these statements and representations are contained in advertising and promotional literature displayed and distributed to prospective purchasers by said sales agents or representatives which is furnished by the respondents.

PAR. 6. Among and typical of the aforesaid statements and representations, and others of similar import and meaning but not specifically set forth herein, made by respondents, directly or by implication, in connection with the sale and offer to sell photograph albums and coupons sold in connection with respondents' enlargement plan, are the following:

1. The respondents have a business relationship with Eastman Kodak Company apart from mere purchase or use of Eastman Kodak Company products;

2. The regular retail price of individual enlargements, if purchased elsewhere, would be \$7 each;

3. Respondents' "everyday price" for enlargement processing is \$7 per enlargement;

4. The \$1 charge accompanying each enlargement request is to cover "postage and handling" only;

5. Enlargements can and will be made from any "reasonably clear colored negative;"

6. Respondents make no profit on the sale of the enlargement plan.

PAR. 7. In truth and in fact:

1. Eastman Kodak Company has no business relationship to respondents or respondents' enlargement plan except to the extent that Eastman Kodak Company products are used or purchased;

2. The regular retail price of individual enlargements, if purchased elsewhere, would not be \$7. The cost of enlargements obtained elsewhere is substantially less than \$7;

3. Respondents do not sell enlargement processing at \$7 per enlargement. Nor do respondents make available, at any price, individual enlargement processing apart from the photograph enlargement plan;

4. The \$1 charge accompanying each individual enlargement request covers most of the cost of processing, in addition to the "postage and handling;"

5. Respondents, or the processing laboratory used by respondents, have refused to enlarge certain sub-miniature and instamatic negatives. No disclosures are made at time of sale informing the purchaser that such enlargements cannot or will not be made, nor have refunds been offered in such cases;

6. Since most of the expense of servicing enlargement requests is covered by the \$1 charge, the base price of the plan charged to each purchaser according to the terms of the contract amounts to a substantial profit for respondents, and covers commissions for respondents' sales agents or representatives.

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

PAR. 8. When demonstrating savings to customers, respondents, through their agents and representatives, neglect to add to the base price of the plan an amount equal to \$1 per enlargement which respondents charge for each enlargement picture requested. Respondents' failure to include this extra charge results in an inflation of the amount the customer might save by purchasing the plan and, therefore, constitutes a deceptive and misleading practice.

PAR. 9. Among and typical of the aforesaid statements and representations, and others of similar import and meaning but not specifically set forth herein, made by respondents, directly or by implication, in connection with the sale and offer to sell photograph albums and certificates sold in connection with respondents' studio portrait plan, are the following:

1. That the studio portrait plan entitles the customer to color portraits;
2. That there is no sitting fee or other charge exacted by the photography studio designated to take the customer's portrait.

PAR. 10. In truth and in fact:

1. In many cases, the portraits available through the studio portrait plan only come in "toned" finish and not in color, as promised by the salesman;
2. Some participating studios have charged, or attempted to charge, additional fees, undisclosed at time of sale.

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

PAR. 11. In connection with the sale of their studio portrait plan, respondents provide in their contracts that should the studio designated by them fail to perform in accordance with the terms of the contract, respondents will instead substitute another studio to fulfill the contract or allow customers to mail snapshot negatives to them for free enlargements. In practice, then, respondents either unilaterally substitute the enlargement plan or assign customers to another, often distant, studio to perform the remaining obligations of the contract. As a result of these practices, customers who contracted for professional portraits have been forced to accept the substituted enlargement plan, or an undesirable studio, when the designated studio fails to perform as agreed. Such unilateral option in respondents to control the nature of their performance when they, or their agents, are unable to perform as agreed, constitutes an unfair and deceptive practice.

PAR. 12. Among and typical of the statements and representations, and others of similar import and meaning, but not specifically set forth herein, made by respondents, directly or by implication, in connection with the sale and offer to sell photograph albums, coupon books and certificates in connection with respondents' photograph enlargement plan and studio portrait plans, and combinations thereof, are the following:

1. The person solicited has been especially selected;
2. The prices charged to the customer are promotional or reduced prices;

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3. The offer being made is a special, or one-time offer, and the customer will not have any opportunity at a later date to make the identical purchase;

4. The salesman has a free gift for the prospective customer;

5. In return for purchase of any part of respondents' plan, the customer will receive, as a prize, gift, or bonus, the album, the booklet of enlargement coupons, or the portrait certificates, at either a reduced charge or without cost;

6. Customers have an unqualified, money-back guarantee;

7. Respondents' agents or representatives are either from or connected with the "Newlywed Game" television program.

8. In many instances, respondents' agents or representatives attempt to gain entry into prospective customers' homes by representations which lead customers to believe respondents' agents or representatives are considering persons for participation in the "Newlywed Game" television program.

PAR. 13. In truth and in fact:

1. Persons solicited by respondents' agents or sales representatives are not especially selected. The only selection process engaged in by respondents or their sales agents or representatives is an effort to pick persons likely to purchase respondents' enlargement plan;

2. The prices charged are not promotional or reduced prices, but are the prices usually and customarily charged. The prices at which respondent offers its various album, portrait, enlargement combinations are the only prices at which the purchase can be made;

3. The offering being made is not a special, or one-time offer, which would prevent the prospective purchaser from later taking advantage of the offer under the same or similar terms;

4. In many cases, nothing free is ever tendered without obligation. In some cases, the gift is conditioned upon making a purchase or meeting a certain schedule of payments. In other cases, the alleged "free gift" is nothing more than a paper cutout teddy bear having nominal value.

5. Neither the album, the booklet of enlargement coupons, or the portrait certificates are given to a customer at a reduced charge or without cost. The price paid reflects payment for all products and services to be received by the customer. The prize, gift or bonus is included in the total cost to the customer;

6. There is no unqualified money-back guarantee which is honored by respondents. Customers are strictly held to the terms of their written contract;

7. Respondents' only connection with the "Newlywed Game" is in the capacity of an occasional sponsor, and sales representatives and agents are not from, or connected with, such television program.

8. Respondents are not considering persons for participation in the "Newlywed Game" television program, but are attempting to enter homes for the purpose of making a sales presentation and selling respondents' merchandise.

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

PAR. 14. In the course and conduct of their business, and for the purpose of inducing, and which have induced, the purchase of their photograph enlargement plans, studio portrait plans, and combinations thereof, respondents have represented that customers are given a money-back guarantee. However, the guarantee may only be exercised upon the following conditions:

- a. the program must be used at a specified rate for four years;
- b. the guarantee may only be exercised before the fifth year has elapsed from date of purchase;
- c. at least 50 enlargements or 8 studio portraits must have been made;
- d. the plan must have been paid for according to all terms of the contract;
- e. the album, enlargements, coupons, certificates and portraits must be returned along with the request for refund.

These conditions are so burdensome, impractical, and difficult to fulfill in their entirety that the claimed guarantee is ineffectual and illusory. Therefore, the practice of representing that customers are provided such a money-back guarantee constitutes an unfair, misleading and deceptive practice.

PAR. 15. 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 and services by reason of such erroneous and mistaken belief.

PAR. 16. The aforesaid acts and practices of respondents, as alleged herein, 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.

Count II

Alleging violations of Section 5 of the Federal Trade Commission Act, the allegations of Paragraphs One, Two, and Three, hereof are incorporated by reference in Count II as if fully set forth verbatim.

PAR. 17. In the course and conduct of their aforesaid business, respondents now cause and for some time last past have caused, letters, forms, and various other kinds and types of documents relating to the collection of delinquent accounts to be deposited in the United States mails and transmitted to persons located in the various States of the United States, all of which constitute a part of the course of trade in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 18. In the course and conduct of their business, respondents have engaged in acts and practices in connection with the collection of accounts from customers, which are unfair, deceptive and oppressive. Among and typical of the aforesaid acts and practices, but not all inclusive, are the following:

1. Mailing notices to customers informing them that accounts have been turned over to an attorney for certain collection by legal proceeding when, in fact, no legal action is ever prosecuted by their collection attorney;

2. Threatening out-of-state customers with a lawsuit in California;

3. Using a mailed form designed to mislead the recipient into believing that such form is sent from an official or public body, by its resemblance in form, content, design, pattern or language to commonly used and recognized government checks, summons, or other official instruments;

4. Using a mailed form, the phrasing of which is designed to mislead the recipient into believing that he has a legal obligation to appear at the creditor's office or else waive any claims he may have against respondents for non-payment on the contract.

PAR. 19. 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 payment of alleged delinquent accounts by reason of said erroneous and mistaken belief.

PAR. 20. The aforesaid acts and practices of respondents, as alleged herein, 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 hereto 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 provisionally accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 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 Tomorrow's Heritage, Inc., doing business as Heritage, is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 170 N. Robertson Boulevard, city of Beverly Hills, State of California.

Respondents Ben H. Garfinkel and Robert R. Silvers are officers of said corporation. They formulate, direct and control the policies, acts and practices 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

I

It is ordered, That respondents Tomorrow's Heritage, Inc., a corporation, doing business as Heritage, or under any other name, its successors

and assigns, and Ben H. Garfinkel and Robert R. Silvers, individually and as officers of said corporation, and respondents' officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of photograph albums, photograph enlargement plans, studio portrait plans, or any other type of photography plan, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or indirectly, orally or in writing, that respondents have a business relationship with Eastman Kodak Company apart from the purchase or use of Eastman Kodak Company products; or misrepresenting, in any manner, the business relationship between respondents and any company, firm, organization, or individual.

2. Representing, directly or indirectly, orally or in writing, that any amount is the usual and customary retail price for products or services, whether purchased from respondents or elsewhere, unless such amount is the price at which the products or services have been usually and customarily sold at retail by respondents, or any other person or persons, for a substantial period of time in the recent and regular course of business; or misrepresenting in any manner, the value of products or services sold by respondents.

3. Failing to keep adequate records:

(a) which disclose the facts upon which any retail price claims, comparative value claims, or other representations of the type described in subparagraph 2 of this order are based; and

(b) from which the validity of any retail price claims, comparative value claims, or other representations of the type described in subparagraph 2 of this order can be determined.

4. Representing, directly or indirectly, orally or in writing, that the \$1 charge, accompanying each enlargement request, covers only the cost of "postage and handling;" or misrepresenting in any manner the purpose or use of any charges exacted for products or services.

5. Representing, directly or indirectly, orally or in writing, that enlargements can and will be made from any clear negative under the terms of any agreement with respondent or respondents' representatives in cases where respondents, or respondents' agents, cannot or will not, make such enlargements under the terms of the agreement; or misrepresenting, in any manner, the services provided by respondents' enlargement plan.

6. Failing to disclose, in a clear and conspicuous manner, both in the written sales agreement entered into with purchasers and any and all written or oral communications describing the services provided by the respondents' enlargement plan, any and all conditions, qualifications, limitations or terms which would affect full use and enjoyment of the enlargement service by any purchaser entering into written agreement with respondents or respondents' representatives, including, but not limited to, the unavailability of enlargement services for certain types of cameras and negatives.

7. Representing, directly or indirectly, orally or in writing, that respondents make no profit on the sale of the enlargement plan; or misrepresenting, in any manner, the business reason for any offer made by respondent, or its representatives.

8. Failing to reveal, clearly and unqualifiedly, at the outset of the initial and all subsequent contacts or solicitations of purchasers or prospective purchasers that the purpose of such contact or solicitation is to make a sales presentation to the prospective purchaser with regard to the sale of products or services.

9. Failing to disclose any and all charges or costs to customers in the purchase of any product or service whenever respondents, or respondents' representatives, discuss any charges, costs or savings in the purchase of products or services; or misrepresenting, in any manner, the amount of savings available to purchasers of respondents' products or services.

10. Failing, clearly, conspicuously and unqualifiedly, to disclose in respondents' sales contract used in connection with the sale of their photograph enlargement plan, that any charges, in addition to the amount being financed by the customer required to obtain full use and enjoyment of the program, are not included in the credit disclosure portion of the contract and represent an additional cost over and above the "cash price" of the plan.

11. Representing, directly or indirectly, orally or in writing, that the studio portrait plan entitles the customer to color portraits unless, in fact, such studio designated by respondents offers color portraits without additional charge or expense to the customer.

12. Representing, directly or indirectly, orally or in writing, that the studio designated to perform respondents' obligations under the contract will not exact a sitting fee, service charge, or any other charge, unless, in fact, the contract for service is performed without cost or obligation whatsoever to the customer.

13. Substituting a means of performance, in cases where, due to no fault of the customer, respondents or their agents cannot per-

form their original obligation according to the original terms of the agreement, unless such substitute or alternative performance on the part of respondents is freely and voluntarily consented to by the customer at the time the substituted performance is to be made. Respondents or their agents will not be deemed to be unable to perform their obligations to a customer in those situations where the customer unilaterally and by his own decision changes his position or circumstances making performance by respondents of their original contractual obligations to the customer impossible.

14. Failing, in cases where respondents or their agents cannot perform their obligations to a customer, due to no fault of the customer, to refund pro rata, an amount equal to the unperformed portion of the contract, unless the customer freely and voluntarily elects to accept a substitute means of performance in lieu of the original contract. Such proportion used to determine the amount of refund shall be derived by dividing the unused portraits to which the customer is entitled by the total number of portraits specified in the contract, without regard to any other products or materials received by the customer. Respondents or their agents will not be deemed to be unable to perform their obligations to a customer in those situations where the customer unilaterally and by his own decision changes his position or circumstances making performance by respondents of their original contractual obligations to the customer impossible.

15. Representing, directly or indirectly, orally or in writing, that any offer to sell said products or services is being made only to specially selected persons, or is not available, on the same terms, to all persons; or misrepresenting, in any manner, the persons, or class of persons, afforded the opportunity of purchasing respondents' products or services.

16. Representing, directly or indirectly, orally or in writing, that any price of a product or service is promotional or reduced, unless such price is below the amount at which such product or service has been sold by respondents for a reasonably substantial period of time in the recent and regular course of their business.

17. Representing, directly or indirectly, orally or in writing, that the offer being made is a special, or one-time offer, or that the offer is for a limited duration; or misrepresenting, in any manner, the duration or availability of any offer.

18. Representing, directly or indirectly, orally or in writing, that any person will receive a free gift, unless respondents actually tender such gift at the time the representation is made, and make

clear that there is no condition or obligation upon the customer or prospective customer for acceptance of such item.

19. Representing, directly or indirectly, orally or in writing, that any product or service is a prize, gift, or bonus, or is being offered at a reduced cost, in connection with the purchase of, or agreement to purchase any product or service, or combination of products or services, unless this stated price of the product or service, or combination thereof, required to be purchased in order to obtain such prize, gift, bonus, or reduced cost is the same as or less than, the customary and usual price at which such product or service, or combination thereof, required to be purchased, has been sold separately from such prize, gift, bonus, or reduced cost item, for a substantial number of sales, at the stated price, for a substantial period of time in the trade area where the representation is made.

20. Failing to make a complete refund to any customers, upon request, who have received, directly or indirectly, orally or in writing, a money-back satisfaction guarantee from respondent or their representatives.

21. Representing that respondents' agents or representatives are from, or connected with, the "Newlywed Game;" or misrepresenting, in any manner, the connection between respondents and any other television or radio program.

22. Representing, directly or indirectly, orally or in writing, that respondents' agents or representatives are considering persons for participation in the "Newlywed Game" television program; or misrepresenting, in any manner, the purpose of respondents' agents or representatives contact with any prospective customer.

23. Representing, directly or indirectly, orally or in writing, that customers are being given a money-back guarantee, unless such guarantee is honored according to its terms, which must be clearly and conspicuously disclosed in writing, and is limited by no more than the following conditions:

(a) The guarantee be exercisable immediately and valid for not less than a one year period following receipt of all initial parts of the purchased package;

(b) Respondents may demand return of consideration given by them.

II

It is further ordered, That respondents Tomorrow's Heritage, Inc., a corporation, doing business as Heritage, or under any other name, its successors and assigns, and Ben H. Garfinkel and Robert R. Silvers,

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individually, and as officers of said corporation, and respondents' officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the collection or attempted collection of any allegedly delinquent accounts in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or indirectly, orally or in writing, that any account or alleged debt is being, or has been, transferred to any attorney with instructions to institute suit or to take any other legal step involving court process, unless respondents are able to establish by adequate records that a prior determination had been made in good faith to institute such legal action.

2. Instituting, or threatening to institute, suits except in the county where defendant resides at the commencement of the action, or in the county where the defendant signed the contract sued upon. This provision shall not preempt any rule of law which further limits choice of forum or which requires, in actions involving real property or fixtures attached to real property, that suit be instituted in a particular county.

3. Using forms, or any other items of printed or written matter, which mislead, or have the tendency to mislead, the recipient to believe that such form was sent by a government body or public agency.

4. Using forms, or any other items of printed or written matter, which mislead, or have the tendency to mislead, the recipient to believe that he is obligated or instructed to appear at any place in connection with the account or alleged debt, or waive any claims he may have against respondents.

III

It is further ordered, That respondents Tomorrow's Heritage, Inc., a corporation, doing business as Heritage, or under any other name, its successors and assigns, and Ben H. Garfinkel and Robert R. Silvers, individually and as officers of said corporation, and respondents' agents, representatives and employees directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of photograph albums, photograph enlargement plans, studio portrait plans, or any other type of photography plan, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Failing to furnish the buyer with a fully completed receipt or copy of any contract pertaining to such sale at the time of its

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execution, which is in the same language, e.g., Spanish, as that principally used in the oral sales presentation and which shows the date of the transaction and contains the name and address of the seller, and in immediate proximity to the space reserved in the contract for the signature of the buyer or on the front page of the receipt if a contract is not used and in bold face type of a minimum size of 10 points, a statement in substantially the following form:

You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right.

2. Failing to furnish each buyer, at the time he signs the door-to-door sales contract or otherwise agrees to buy consumer goods or services from the seller, a completed form in duplicate, captioned "NOTICE OF CANCELLATION," which shall be attached to the contract or receipt and easily detachable, and which shall contain in 10 point bold face type the following information and statements in the same language, e.g., Spanish, as that used in the contract:

Notice of Cancellation

(enter date of transaction)
date

You may cancel this transaction without any penalty or obligation, within 3 business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 business days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be cancelled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale; or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available

to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice or any other written notice, or send a telegram, to

_____ (name of seller)

at

_____ (address of seller's place of business)

not later than midnight of

_____ (date)

I hereby cancel this transaction.

_____ (date)

_____ (buyer's signature)

3. Failing, before furnishing copies of the "Notice of Cancellation" to the buyer, to complete both copies of entering the name of the seller, the address of the seller's place of business, the date of the transaction, and the date, not earlier than the third business day following the date of the transaction, by which the buyer may give notice of cancellation.

4. Including in any door-to-door contract or receipt a waiver of any of the rights to which the buyer is entitled under this Section including specifically his right to cancel the sale in accordance with the provisions of this Section. Respondents further agree not to include in any door-to-door contract or receipt any confession of judgment.

5. Failing to inform each buyer orally, at the time he signs the contract or purchases the goods or services, of his right to cancel.

6. Misrepresenting in any manner the buyer's right to cancel.

7. Failing or refusing to honor any valid notice of cancellation by a buyer and within 10 business days after the receipt of such notice, to: (a) Refund all payments made under the contract or sale; (b) return any goods or property traded in, in substantially as good condition as when received by the seller; (c) cancel and return any negotiable instrument executed by the buyer in connection with the contract or sale and take any action necessary or appropriate to terminate promptly any security interest created in the transaction.

8. Negotiating, transferring, selling, or assigning any note or other evidence of indebtedness to a finance company or other third

