

Order

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IN THE MATTER OF  
EXXON CORPORATION, ET AL.\*

*Docket 8934. Order, Mar., 4, 1975*

Denial of complaint counsel's motion for (1) major integrated procedural relief relative to discovery, (2) manual for complex litigation, (3) a second administrative law judge, and (4) a firm schedule for prehearing phase of the case. Also denial of respondents' suggestions for dismissal of the complaint.

ORDER DENYING MOTION FOR MAJOR INTEGRATED PROCEDURAL  
RELIEF

By order of Oct. 23, 1974, the administrative law judge certified to the Commission complaint counsel's "Motion for Major Integrated Procedural Relief" requesting (1) with respect to this matter, substitution with minor modifications of the discovery rules of the Federal Rules of Civil Procedure for the Commission's discovery rules or, in the alternative, liberalization of the latter to facilitate the taking of depositions; (2) adoption of the Manual for Complex Litigation as a guide for this matter; (3) appointment of a second administrative law judge to rule upon all discovery related matters in this proceeding; and (4) adoption of a firm schedule for the prehearing phase of this case. In a joint answer, all respondents except Texaco oppose this motion in all respects. For its part, Texaco also opposes the motion and suggests that this matter be withdrawn from adjudication for further investigation. Finally, in a separate pleading, respondent, Shell Oil Company proposes that this complaint be dismissed and that the Commission confine its future activities in the field of energy to the gathering and analysis of data.

Upon consideration of the voluminous pleadings filed in connection with this matter, the Commission has determined to deny complaint counsel's motion in all respects. As for request (1), as a general principle the Commission does not favor tailoring special rules for individual cases. Complaint counsel have not convinced us that we should depart from this general principle. Furthermore, the Commission presently has under consideration a number of proposed rule changes including revisions of the Commission's discovery rules for adjudicative proceedings. The revisions dealing with discovery rules will be published in the near future in the *Federal Register* as proposals, and public comment will be invited as well as the views of the Commission's operating bureaus and administrative law judges. Respondents in this and any other pending adjudicative matters which

\* For appearances see p. 91 herein.

may be affected by any such rule changes may, of course, also submit their views at that time.

Requests for the adoption of the "Manual for Complex Litigation" as a guide in this proceeding and a firm prehearing schedule and trial-commencement date are also denied. Although the Commission encourages consideration by the administrative law judge of many of the procedural devices included in the Manual, wholesale "adoption" of the Manual by Commission directive is unnecessary and unwarranted. These procedural devices and the question of prehearing schedules are best left to the administrative law judge to rule upon.<sup>1</sup> The question of the need for an additional administrative law judge is one that should be directed in the first instance to the chief administrative law judge who has authority to appoint an additional law judge or judges if he determines there is compelling need for them.

Finally, the Commission concludes that it would be contrary to the public interest to adopt respondents' suggestions that the complaint herein be dismissed and to the extent that such suggestions were intended to be motions, they are denied.

*It is so ordered.*

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IN THE MATTER OF

SOUNDTRACK CHEVELL INDUSTRIES, INC., ET AL.

*Docket 8998. Order, March 4, 1975*

Complaint counsel ordered to show cause, within ten days, why complaint should not be dismissed as to individual respondent Tommie Tubb.

*Appearances*

For the Commission: *Richard H. Gately, Paul W. Turley and John Hemrick.*

For the respondents: *Pro se.*

DISSENTING STATEMENT OF COMMISSIONERS M. ELIZABETH  
HANFORD AND STEPHEN NYE

We dissent from the Commission's decision to require complaint counsel to show cause why this complaint should not be dismissed as to respondent Tommie Tubb.

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<sup>1</sup> In certifying this matter to the Commission, the ALJ recognized his authority to adopt the "Manual for Complex Litigation" as a guide and, of course, fix a prehearing schedule and date for commencement of trial. However, in view of his lack of authority to grant the other relief requested, he certified all of complaint counsel's requests as they were "so closely related as to warrant certification of the motion as an 'integrated package.'" Order of Certification, Oct. 27, 1974.

In *American Chinchilla Corporation, Inc., et al.*, 76 F.T.C. 1016 (1969), the Commission established that it would not countenance entry of an order against an indigent respondent unrepresented by counsel. To guard against a recurrence of the *American Chinchilla* situation, the Commission on Dec. 15, 1970 issued a policy statement setting forth carefully designed procedures for the appointment of counsel for indigent respondents.<sup>1</sup> Thereafter, thanks to the gracious cooperation of the Antitrust Section of the American Bar Association, those procedures have been used to good effect on several occasions. We see no reason why the same procedures should not be followed<sup>2</sup> in this matter.

Indeed, the established procedures have been followed, to a degree. On or about Jan. 10, 1975, Mr. Tubb filed the prescribed "Statement of Financial Status," together with certain documents in support of his application for appointment of counsel. At that point, the appropriate procedure would have been for the administrative law judge to make findings on Mr. Tubb's financial ability to retain counsel, and forward those findings to the Commission.<sup>3</sup> On Feb. 4, however, the administrative law judge certified the question to the Commission, without having made such findings.

Because the majority provides no explanation for its departure from the 1970 policy statement, widespread confusion is likely to ensue. When it issued its complaint in this matter, the Commission ascertained that the public interest would be served thereby. We see no information which casts doubt on that determination, nor is there any occasion to reexamine it at this juncture. All we have learned is that Mr. Tubb may be in financial difficulty at the present time. Unless we are to conclude that indigence as of the time of trial is a defense to a Section 5 charge, we ought not to disturb our determination to include Mr. Tubb in this complaint. We believe the proper course for us now is to return the matter to the law judge to permit him to make findings pertinent to the respondent's financial ability to hire a lawyer.

#### CONCURRING OPINION OF COMMISSIONER THOMPSON

BY THOMPSON, *Commissioner*:

Having no desire to play the role of Hugo's relentless detective Javert and pursue some latter day Jean Valjean across a decade or so of troubles for stealing a loaf of bread-or at least for being on the scene when one was stolen-I support this show cause order. The "villain" we

<sup>1</sup> Statement of Policy: Respondents Unable to Afford Counsel, 35 Fed. Reg. 18998 (Dec. 15, 1970).

<sup>2</sup> See, e.g., *Universe Chemicals, Inc., et al.*, 77 F.T.C. 163 (interlocutory order, 1970).

<sup>3</sup> Such findings have been made in other cases. See, e.g., *Steven Rizzi, et al., dba Freight Liquidators*, Dkt. 8937 (Findings on the Financial Inability of Sam Katz to Retain Counsel, Sept. 28, 1973).

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are now pursuing, a former salesman for these respondents, is now, according to his affidavits, a \$150 a week handyman with no significant assets and hence unable to employ counsel. If he played a substantial role in these alleged deceptions, then I might be prepared to see him brought in with Jean Valjean. If not, I would free them both from the galleys and let the Federal Trade Commission get on with the serious business of trying to help the country's economy.

ORDER TO SHOW CAUSE WHY COMPLAINT SHOULD NOT BE  
DISMISSED AS TO RESPONDENT TUBB

By order of Feb. 6, 1975, the administrative law judge has certified to the Commission the request of respondent Tommie Tubb that the Commission appoint counsel to represent him in this matter. Having considered this request, including Mr. Tubb's present employment and financial situation, the Commission believes that it would be in the public interest to consider further the question of whether this individual respondent is a necessary party to this proceeding. Accordingly,

*It is ordered,* That complaint counsel be, and they hereby are, ordered to show cause, within ten (10) days of this order, why this complaint should not be dismissed as to respondent Tubb.

Commissioners Hanford and Nye dissenting.

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IN THE MATTER OF

BESTLINE CORPORATION, ET AL.

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

*Docket C-1986. Decision, July 22, 1971 - Modified Order, Mar. 4, 1975\**

Order modifying an earlier order dated July 22, 1971, 79 F.T.C. 107, 36 F.R. 17982, issued against a San Jose, Calif., seller and distributor of household, commercial, and industrial cleaners and waxes, and distributorships therefor, by expanding the order, as to corporate respondents only, to include a more precise definition and clarification of "multi-level marketing programs."

*Appearances*

For the Commission: *W. J. Marschalk* and *Robert Galler*.

For the respondents: *Robert N. Humphries, Humphries, Berger,*

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\* Reported as corrected by order of Apr. 22, 1975.

*Pitto & Pearl*, San Jose, Calif., *Joseph N. Cotchett, Hutchinson & Dyer*, San Mateo, Calif.

ORDER REOPENING PROCEEDINGS AND MODIFYING ORDER TO  
CEASE AND DESIST

Respondents Bestline Corporation (incorrectly identified earlier as Bestline Products Corporation) and Bestline Products, Inc., filed a petition on Dec. 6, 1974, requesting that this matter be reopened and the cease and desist order of July 22, 1971, be modified. Following negotiations with the Commission's staff attorneys, respondents filed a supplement to this petition, one that, with a slight further modification, is not opposed by Commission counsel.

Section 3.72(b) of the Commission's Rules of Practice permits a reopening of a final order of this agency only upon a showing of changed conditions of law or fact or that such reopening and modification are otherwise required by the public interest. In the instant matter, these tests are said to be satisfied in that (a) the order in question is uncertain in scope because of a failure to define a key phrase, "multilevel marketing program," and that (b) this infirmity is illustrated by the fact that subsequent Commission orders, *e.g.*, *Ger-Ro-Mar, Inc., et al.*, Docket No. 8872 (Oct. 15, 1974) [84 F.T.C. 95] and *Holiday Magic, Inc., et al.*, Docket No. 8834 (Oct. 15, 1974) [84 F.T.C. 748] employ a substantially different terminology of more precise and different scope. While inconsistencies between consent orders are generally attributable to factual differences between cases and the give-and-take of negotiation rather than order deficiencies that require reopening and clarification, we are persuaded that the public interest requires a modification in the instant case.

The petition before us having been filed only on behalf of the corporate respondents, and a civil penalty action involving an alleged violation of the order by one of the individual respondents being in progress before the United States District Court for the Northern District of California, we will defer any modification of the order in regard to said individuals until such time as an appropriate application therefor might be duly filed. Accordingly,

*It is ordered*, That the proceedings in the above-captioned matter be, and they hereby are, reopened.

*It is further ordered*, That the Commission's order in said matter, issued July 22, 1971 [79 F.T.C. 107], be, and it hereby is, modified to read as follows:

## ORDER

## PART I

*It is ordered,* That respondents William E. Bailey and Robert W. DePew individually and as officers of Bestline Corporation and Bestline Products, Inc., directly or through any corporate or other device in connection with the advertising, offering for sale, sale or distribution of household, industrial or commercial cleaners or waxes or other products or of distributorships or franchises in a multi-level or other marketing program or with the seeking to induce or inducing the participation of persons, firms, or corporations in a multi-level or other marketing program in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Operating or, directly or indirectly, participating in the operation of any multi-level marketing program wherein the financial gains to the participants are dependent upon the continued, successive recruitment of other participants.

2. Offering to pay, paying or authorizing the payment of any finder's fee, bonus, override, commission, cross-commission, discount, rebate, dividend or other consideration to any participants in respondent's multi-level marketing program for the solicitation or recruitment of other participants therein.

3. Offering to pay, paying or authorizing payment of any bonus, override, commission, cross-commission, discount, rebate, dividend or other consideration to any person, firm or corporation in connection with the sale of any product or service under respondent's multi-level marketing program unless such person, firm or corporation performs a bona fide and essential supervisory, distributive, selling or soliciting function in the sale and delivery of such products to the ultimate consumer.

4. Requiring prospective participants or participants in respondents' said program to purchase the product or pay any other consideration, other than payment for the actual cost of necessary sales materials, in order to participate in any manner therein; *Provided, however,* That respondents may require or may suggest the purchase of specific and reasonable inventories only, by any distributor, on the express condition that respondents at the same time agree to repurchase any unused and undamaged portion of an initial inventory from any purchaser thereof at full cost less reasonable shipping costs, if any, within 90 days from the delivery of the product at the option of the purchaser; *Provided further, however,* That if inventory costs reach \$500 or more, within said 90 day period, then said obligation to

repurchase shall cease immediately upon participant's tendering a subsequent order to purchase the product.

5. Using any multi-level marketing program, either directly or indirectly:

(a) Wherein any finder's fee, bonus, override, commission, cross-commission, discount, rebate, dividend or other compensation or profit inuring to participants therein is dependent on the element of chance dominating over the skill or judgment of the participants; or

(b) Wherein no amount of judgment or skill exercised by the participants has any appreciable effect upon any finder's fee, bonus, override, commission, cross-commission, discount, rebate, dividend or other compensation or profits which the participants may receive; or

(c) Wherein the participant is without that degree of control over the operation of such plan as to enable him substantially to affect the amount of any finder's fee, bonus, override, commission, cross-commission, discount, rebate, dividend or other compensation or profit which he may receive or be entitled to receive.

6. Using any multi-level marketing program which fails to:

(a) Inform orally all participants in respondents' multi-level marketing programs and to provide in writing in all contracts of participation that the contract may be cancelled for any reason by notification to respondents in writing within three working days from the date of execution of such contract.

(b) Refund immediately all monies to (1) participants who have requested contract cancellation in writing within three working days from the execution thereof, and (2) participants showing that respondents' contract solicitations or performance were attended by or involved violation of any of the provisions of this order.

7. Representing, directly or by implication, that participants in respondents' multi-level marketing programs will earn or receive any stated or gross or net amount; or representing, in any manner, the past earnings of participants unless in fact the past earnings represented are those of a substantial number of participants in the community or geographical area in which such representations are made and accurately reflect the average earnings of these participants under circumstances similar to those of the participant or prospective participant to whom the representation is made.

8. Representing, directly or by implication, that it is not difficult for participants to recruit or retain persons to invest in respondents' multi-level marketing programs as distributors or as sales personnel to work home routes or sell respondents' products door-to-door or any other manner.

9. Representing, directly or by implication, that it is not difficult for

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participants to ascend to a higher level of distribution within the marketing chain.

10. Representing, directly or by implication, that all participants in the respondents' multi-level marketing program or any other sales program will succeed.

11. Representing, directly or by implication, that the supply of available entrants or investors in the respondents' marketing program is inexhaustible; or misrepresenting, in any manner, the availability of such entrants or investors.

12. (a) Failing to disclose, orally and in writing, the terms of this order to cease and desist to all present and future distributors, salesmen or other persons engaged in the sale of respondents' products, services, or merchandising programs, and securing from each such distributor, salesman or other person a signed statement evidencing receipt of said disclosure.

(b) Failing to make available on request a copy of this cease and desist order to any participant or prospective participant.

*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.

#### PART II

*It is further ordered,* That respondents Bestline Products, Inc. and Bestline Corporation, corporations, their officers, agents, representatives and employees, directly or indirectly, or through any corporate or other device in connection with the advertising, offering for sale, or sale of products, services, franchises or distributorships, or in connection with seeking to induce or inducing the participation of persons, firms or corporations therefor, or in connection with any marketing program or any other kind of merchandising, marketing or sales promotion program in commerce, or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

1. Operating or directly or indirectly participating in the operation of any marketing or sales program wherein the financial gains to the participants are dependent upon the continued, successive recruitment of other participants; *Provided, however,* That financial gains offered or received in accordance with paragraph 3 hereinbelow shall not be prohibited by this paragraph.

2. Offering to pay, paying, or authorizing the payment of any finder's fee, bonus, override, commission, cross-commission, discount, rebate, dividend or any other form of consideration to any participant



or prospective participant for the solicitation or recruitment of any other participant or participants in any marketing or sales program.

3. Offering to pay, paying, or authorizing payment of any bonus, override, commission, cross-commission, discount, rebate, dividend or any other form of consideration to any person, firm or corporation in connection with the sale of any product or service unless such person, firm or corporation performs a bona fide and essential supervisory, distributive, selling or soliciting function in the sale and delivery of products or services to the ultimate consumer.

4. Requiring prospective participants or participants, in order to participate in any manner in respondents' marketing or sales program, to purchase products or pay any other consideration other than the actual costs to respondents, as determined by generally accepted accounting principles, of reasonably necessary sales materials and training relating to the sale of products or services; *Provided, however*, That respondents may suggest, but not require, that participants or prospective participants purchase specific amounts of product inventory; *Provided*, That such suggested purchases shall not exceed the reasonably necessary inventory requirements of participants of the same level of distribution and status for a period not to exceed one (1) month, based on the actual monthly purchasing experience of at least fifteen percent (15 percent) of the participants who have been engaged in respondents' program at such level and status for at least six (6) months and who have purchased products or services, either directly or indirectly, from respondents within the past six (6) months.

5. Failing to repurchase any unused and undamaged products which were purchased directly or indirectly from respondents by a participant within eighteen (18) months before the voluntary or involuntary termination of such participant at not less than 95 percent of the net cost of such products to such participant upon the return of such products to respondents or their designated nominee for such purpose, freight prepaid.

6. Failing, clearly and conspicuously, to disclose on each product or services order form and other documents utilized by participants or prospective participants to acquire products or services either directly or indirectly from respondents the following: Distributors are not required to purchase any specific amount of products. (*Name of applicable business organization*) guarantees the repurchase, at 95 percent of net cost, of all unused and undamaged products purchased within 18 months before a distributor's termination and returned freight prepaid.

7. Using any marketing or sales program which fails to:

(a) Inform orally all new participants in such program and to provide

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in writing in all contracts of participation relating thereto that the contract may be cancelled for any reasons by notification to respondents or to their sponsoring distributor, in writing, within three (3) working days from the date of execution of such contract.

(b) Refund immediately all monies to (1) participants who have requested contract cancellation in writing within three (3) working days from the execution thereof, and (2) participants showing that respondents' contract solicitation or performance were attended by or involved violation of any of the provisions of this order.

8. Representing, directly or by implication, or by use of hypothetical examples that participants in any marketing program, or any other kind of merchandising, marketing or sales promotion program, will earn or receive, or have the potential or reasonable expectancy of earning or receiving, any stated or gross or net amount, or representing in any manner the past earnings of participants, unless in fact the earnings represented are those of a substantial number of participants in the community or geographic area in which such representations are made, and the representation clearly indicates the amount of time required by said past participants to achieve the earnings represented, and failing to maintain adequate records which disclose the facts upon which any claims of the type discussed in this paragraph are based, and from which the validity of any claim of the type in this paragraph can be determined.

9. Representing, directly or by implication, that it is not difficult for participants to recruit or retain persons to invest in respondents' marketing or sales programs as distributors or as sales personnel to work home routes or sell respondents' products door-to-door or any other manner.

10. Representing, directly or by implication, that it is not difficult for participants to ascend to a higher level of distribution within the marketing chain.

11. Representing, directly or by implication, that all participants in respondents' marketing or sales programs will succeed.

12. Representing, directly or by implication, that the supply of available entrants or investors in the respondents' marketing program is inexhaustible; or misrepresenting, in any manner, the availability of such entrants or investors.

13. (a) Failing to disclose, in writing, the existence of this order to cease and desist and its terms to all present and future distributors, salesmen or other persons engaged in the sale of respondents' products, services or merchandising programs by mailing to the last known address of each present distributor such written disclosures and by securing from each distributor, salesman or other person who becomes

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a participant in respondents' marketing or sales program subsequent to the effective date of this order a signed statement evidencing receipt of such disclosure. ("Present distributors" as used herein shall mean those distributors who have purchased products, directly or indirectly, from respondents within eighteen (18) months of the effective date of this order.)

(b) Failing to make available on request a copy of this cease and desist order to any participant or prospective participant.

*It is further ordered,* That for 120 days subsequent to the effective date of this order or until the existing order forms presently utilized by respondents are exhausted, whichever occurs first, it shall be sufficient to show compliance with Part II, paragraph 6 of this order, to show that each order form which respondents disseminate subsequent to the effective date of this order has attached to it or stamped thereon the disclosure required by said paragraph 6.

*It is further ordered,* That the corporate respondents notify the Commission at least thirty (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 this order.

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

*It is further ordered,* That the corporate 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

FLEETWOOD ENTERPRISES, INC.

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

*Docket C-2641 Complaint, Mar. 4, 1975 - Decision, Mar. 4, 1975*

Consent order requiring a Riverside, Calif., manufacturer of mobile homes, among other things to cease unfair and deceptive warranty practices through the establishment of a prompt and effective system to handle warranty-related problems. The order requires respondent to provide warranty repairs or services on still-unrepaired mobile homes manufactured between 1972 and 1974 and to provide future retail purchasers with relief by establishing and

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maintaining a regular and effective system to handle complaints and service. Under this system, all repairs must be complete within thirty days after notification to the respondent of defects. Where the defects affect safety or habitability of the mobile home, the repairs must be started within three business days and be expeditiously completed.

*Appearances*

For the Commission: *Eric M. Rubin, Robert N. Weinstock, Walter E. Diercks and Pamela B. Stuart.*

For the respondents: *William H. Lear, Riverside, Calif., and Donald Belcher, Gibson, Dunn & Crutcher, Los Angeles, 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 Fleetwood Enterprises, Inc., a corporation, and certain of its subsidiaries, (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. For the purposes of this complaint and the order attached hereto the term "mobile home" means a movable or portable dwelling over thirty two feet in body length and over eight feet in width, constructed to be towed on its own chassis and designed so as to be installed with or without a permanent foundation for human occupancy as a residence, which may include one or more components which can be retracted for towing purposes and subsequently expanded for additional capacity, or two or more units separately towable but designed to be joined into one integral unit. "Mobile home" as used herein includes the mobile home structure, including the plumbing, heating and electrical systems.

PAR. 2. Respondent Fleetwood Enterprises, 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 3125 Myers St., P.O. Box 7638, Riverside, Calif.

PAR. 3. Respondents are now and have been engaged in the design, manufacture, advertising, offering for sale, sale and distribution of mobile homes to selected mobile home dealers. Manufacturing is accomplished in approximately 32 facilities controlled and operated by respondents, located in approximately 18 states. Respondent Fleetwood Enterprises dominates, controls, condones, approves and derives

pecuniary benefit from the conduct of its subsidiaries engaged along with it in the above described business.

PAR. 4. In the further course and conduct of their aforesaid business respondents are now and have been soliciting persons (individuals, partnerships and corporations) to become "authorized" dealers, and are also solicited by persons who desire to become "authorized" dealers. Respondents select certain of these persons as "authorized" dealers. In the normal course of business respondents sell and distribute the aforesaid homes only to these "authorized" dealers who then resell these products to the public. In the normal course of business the way in which the aforesaid homes are purchased new at retail unused by a first purchaser is through an "authorized" dealer.

PAR. 5. In the further course and conduct of their aforesaid business respondents place primary reliance on their "authorized" dealers to ascertain which of their aforesaid mobile homes contain defects which are subject to the aforesaid warranty, and to notify respondents of defects for which respondents assume responsibility. Respondents also place primary reliance on their "authorized" dealers to effect such repairs and services as are necessary to correct defects covered by the aforesaid warranty and to notify respondents of those defects covered by the aforesaid warranty which said dealers are unable or unwilling to fully correct, so that respondents may repair the aforesaid defects either directly with their own personnel or through the use of an independent service contractor.

PAR. 6. In the further course and conduct of their aforesaid business, respondents now cause and have caused, their mobile homes to be transported to "authorized" dealers located in various States of the United States and to be sold to retail purchasers by such dealers. Respondents therefore maintain and have maintained a substantial course of trade in said mobile homes in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 7. In the further course and conduct of their aforesaid business respondents are now, and have been, orally or in writing, directly or through their dealers and others, granting or disseminating certain warranties or certain statements concerning their warranties to each retail purchaser of their aforesaid mobile homes by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act.

(a) Each written warranty disseminated by respondents since approximately Oct. 1972 represents directly or by implication that respondents warrant their mobile homes to be free from any substantial manufacturing defects in material or workmanship and that respondents shall for all purchasers or their transferees repair or

