

IN THE MATTER OF
CREDIT BUREAU ASSOCIATES, ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION AND FAIR CREDIT REPORTING
ACTS

Docket C-2936. Complaint, Nov. 9, 1978 — Decision, Nov. 9, 1978

This order, among other things, requires a Camden, N.J. credit reporting firm and its partners to cease failing to provide properly identified consumers with requested file information; reinvestigate disputed information; incorporate current findings in consumer files; and promptly advise such consumers of the results of the reinvestigation, without charge. Additionally, the order prohibits the firms from using consumers' phone numbers for debt collection purposes; and requires them to maintain, for a prescribed period, records regarding the manner and form of their compliance with the terms of the order.

Appearances

For the Commission: *Shirley F. Norris.*

For the respondents: *Richard D. DeCon, Capehart & Scatchard,*
Camden, N.J.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended, and of the Fair Credit Reporting Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that the parties named in the caption hereof, hereinafter sometimes referred to as respondents, have violated the provisions of said Acts, 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 accompanying order to cease and desist, "consumer report," "consumer reporting agency" and "file" are defined as set forth in Sections 603(d), 603(f) and 603(g), respectively, of the Fair Credit Reporting Act.

PAR. 2. Respondent Credit Bureau Associates is a partnership existing and doing business under and by virtue of the laws of the State of New Jersey, with its trade name registered in Camden County, New Jersey, and its principal office and place of business

located at 817 Carpenter St., Camden, New Jersey. Said respondent is a "consumer reporting agency."

Respondent Camden Credit Association is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its principal office and place of business located at 817 Carpenter St., Camden, New Jersey. Said respondent is a partner in Credit Bureau Associates and is a "consumer reporting agency."

Respondent Credit Information Center, Inc., d/b/a Credit Information Center of West Chester, is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Pennsylvania, with its principal office and place of business located at 1154 West Chester Pike, West Chester, Pennsylvania. Said respondent is a partner in Credit Bureau Associates and is a "consumer reporting agency."

Respondent Norristown Credit Bureau, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Pennsylvania, with its principal office and place of business located at 817 Carpenter St., Camden, New Jersey. Said respondent is a partner in Credit Bureau Associates and is a "consumer reporting agency."

Respondent Suburban Credit Bureau, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its principal office and place of business located at 817 Carpenter St., Camden, New Jersey. Said respondent is a partner in Credit Bureau Associates and is a "consumer reporting agency."

Respondent Charles W. Swan, Jr. is an individual and an officer of Camden Credit Association. In said capacity he is responsible for that corporation's activities as a partner in Credit Bureau Associates. His business address is the same as that of said corporation.

Respondent George C. Whittam is an individual and an officer of Credit Information Center, Inc. In said capacity he is responsible for that corporation's activities as a partner in Credit Bureau Associates. His business address is 1154 West Chester Pike, West Chester, Pennsylvania.

Respondent Bernard S. Becker is an individual and an officer of Norristown Credit Bureau, Inc. In said capacity he is responsible for that corporation's activities as a partner in Credit Bureau Associates. His business address is the same as that of said corporation.

Respondents Woodrow W. French and John J. Lamplugh are individuals and officers of Suburban Credit Bureau, Inc. In said capacity they are responsible for that corporation's activities as a

partner in Credit Bureau Associates. Their business address is the same as that of said corporation.

Respondents Camden Credit Association, Credit Information Center, Inc., Norristown Credit Bureau, Inc., Suburban Credit Bureau, Inc., Charles W. Swan, Jr., George C. Whittam, Bernard S. Becker, Woodrow W. French and John J. Lamplugh thus formulate, direct and control the policies, acts and practices of respondent Credit Bureau Associates, including those hereinafter set forth.

PAR. 3. All the acts and practices alleged herein took place and are taking place in the ordinary course of respondents' business and occurred subsequent to April 25, 1971, the effective date of the Fair Credit Reporting Act.

PAR. 4. In the regular course and conduct of their business, respondents engage in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports for use by others in making a decision concerning whether to grant credit, underwrite insurance or employ the subject of such report.

PAR. 5. Respondents, in certain instances, fail, upon request and proper identification of the consumer, to clearly and accurately disclose to the consumer the nature and substance of all information (except medical information) in the file on the consumer at the time of the request.

Therefore, respondents are in violation of Section 609(a)(1) of the Fair Credit Reporting Act.

PAR. 6. When the completeness or accuracy of an item of information in his or her file is disputed by a consumer, respondents fail in certain instances to:

- (a) Reinvestigate the disputed information within a reasonable period of time;
- (b) Record, after reinvestigation, the current status of information disputed by the consumer; and
- (c) Promptly delete information which is found to be inaccurate or not verifiable after reinvestigation.

Therefore, respondents are in violation of Section 611(a) of the Fair Credit Reporting Act.

PAR. 7. After reinvestigation of disputed items of information in the file on the consumer, in certain instances where there were no reasonable grounds to believe that the dispute was frivolous or irrelevant, the respondents retained the disputed items in subsequent consumer reports by failing to delete said information, failing to clearly note the existence of a dispute and failing to enclose a brief

statement of the consumer's version of the dispute or an accurate summary thereof.

Therefore, respondents are in violation of Section 611(c) of the Fair Credit Reporting Act.

PAR. 8. In the course and conduct of their business, in certain instances, respondents have failed to provide disclosure of information without charge to consumers who contact respondents within thirty days of the consumer being notified by a user of consumer reports that credit has been denied based wholly or in part on the basis of a consumer report issued by respondents.

Therefore, respondents are in violation of Section 612 of the Fair Credit Reporting Act.

PAR. 9. In the course and conduct of their business, when consumers have appeared in person at respondents' place of business and have requested disclosure of information in the file relating to the consumer, as a condition precedent to the disclosure, respondents have demanded that the consumer reveal information in excess of that information necessary for proper identification of the consumer.

Typical and illustrative of the excessive demands for information are (1) demand for five (5) years of previous address history, (2) demand for home telephone numbers and other telephone numbers, and (3) demand for disclosure of previous employment.

Therefore, respondents have violated Section 610(b)(1) of the Fair Credit Reporting Act by placing onerous and excessive requirements on the right of consumer disclosure.

PAR. 10. The acts, practices and omissions set forth in Paragraphs Five through Nine herein are in violation of the Fair Credit Reporting Act and, pursuant to Section 621(a) of that Act, respondents have thereby violated Section 5(a) of the Federal Trade Commission Act, as amended.

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 New York Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Fair Credit Reporting Act and the Federal Trade Commission Act, as amended, 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 sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Credit Bureau Associates is a partnership existing and doing business under and by virtue of the laws of the State of New Jersey, with its trade name registered in Camden County, New Jersey, with its principal office and place of business located at 817 Carpenter St., Camden, New Jersey.

Respondent Camden Credit Association is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its principal office and place of business located at 817 Carpenter St., Camden, New Jersey. Camden Credit Association is a partner in Credit Bureau Associates.

Respondent Credit Information Center, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Pennsylvania, with its principal office and place of business located at 1154 West Chester Pike, West Chester, Pennsylvania. Said corporation does business under the name Credit Information Center of West Chester. Credit Information Center, Inc. is a partner in Credit Bureau Associates.

Respondent Norristown Credit Bureau, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Pennsylvania, with its principal office and place of business located at 817 Carpenter St., Camden, New Jersey. Norristown Credit Bureau, Inc. is a partner in Credit Bureau Associates.

Respondent Suburban Credit Bureau, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its principal office and place of business located at 817 Carpenter St., Camden, New Jersey. Suburban Credit Bureau, Inc. is a partner in Credit Bureau Associates.

Respondent Charles W. Swan, Jr. is an individual and an officer of Camden Credit Association. In said capacity he is responsible for that corporation's activities as a partner in Credit Bureau Associates. His business address is the same as that of said corporation.

Respondent George C. Whittam is an individual and an officer of Credit Information Center, Inc. In said capacity he is responsible for that corporation's activities as a partner in Credit Bureau Associates. His business address is 1154 West Chester Pike, West Chester, Pennsylvania.

Respondent Bernard S. Becker is an individual and an officer of Norristown Credit Bureau, Inc. In said capacity he is responsible for that corporation's activities as a partner in Credit Bureau Associates. His business address is the same as that of said corporation.

Respondents Woodrow W. French and John J. Lamplugh are individuals and officers of Suburban Credit Bureau, Inc. In said capacity they are responsible for that corporation's activities as a partner in Credit Bureau Associates. Their business address is the same as that of said corporation.

Respondents Camden Credit Association, Credit Information Center, Inc., Norristown Credit Bureau, Inc., Suburban Credit Bureau, Inc., Charles W. Swan, Jr., George C. Whittam, Bernard S. Becker, Woodrow W. French and John J. Lamplugh thus formulate, direct and control the policies, acts and practices of respondent Credit Bureau Associates.

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

ORDER

It is ordered. That respondent Credit Bureau Associates, a partnership; and Camden Credit Association, Credit Information Center, Inc., Norristown Credit Bureau, Inc. and Suburban Credit Bureau, Inc., corporations, and partners in Credit Bureau Associates, and their successors and assigns, and their officers; and Charles W. Swan, Jr., George C. Whittam, Bernard S. Becker, Woodrow W. French and John J. Lamplugh, individually and as the officers of the corporate partners of Credit Bureau Associates responsible for the operations of said partnership; and respondents' agents, representatives, employees, directly or through any corporation, subsidiary, division or any other device, in connection with the collecting, assembling, evaluating or furnishing of consumer reports, as "consumer report" is defined in Section 603(d) of the Fair Credit

Reporting Act (15 U.S.C. 1681, *et seq.*) do forthwith cease and desist from:

1. Failing to disclose promptly by telephone, mail or in person, upon request and proper identification of the consumer, clearly and accurately, the nature and substance of all information (except medical information) in the file on the consumer at the time of the request.

2. Failing, when the completeness or accuracy of an item of information in the file is disputed by the consumer, unless there are reasonable grounds to believe that the dispute is frivolous or irrelevant, to (a) reinvestigate the disputed information within a reasonable period of time; (b) record, after reinvestigation, the current status of information disputed by the consumer; (c) promptly delete information which is found to be inaccurate or not verifiable after the reinvestigation; and (d) promptly include the consumer's statement of dispute if the controversy is not resolved.

3. Failing, whenever a statement of dispute has been filed, unless there are reasonable grounds to believe that the dispute is frivolous or irrelevant, to clearly note in any subsequent consumer report containing the information in question that it is disputed by the consumer, and to provide either the consumer's statement of dispute or a clear and accurate summary thereof.

4. Failing, when the consumer is granted by the Fair Credit Reporting Act the right to receive disclosure of the information in the file pertaining to that consumer without charge, to provide such information disclosure without charge.

5. Failing, when respondents reinvestigate disputed items of information, to promptly inform the consumer of the results of such reinvestigation.

6. Failing, where the consumer's file contains codes, symbols or any abbreviations, to deliver a copy of the key to such codes, symbols or abbreviations to the consumer.

It is further ordered, That, where respondents obtain telephone numbers from consumers, respondents shall not use such telephone numbers for any debt collection activity.

It is further ordered, That respondents shall, at all times, subsequent to the effective date of this order, maintain complete business records about the manner and form of their compliance with this order during the immediately preceding two year period. Such records shall include logs, journals, or other compilations of all correspondence with consumers and consumer report applicants or subscribers, policy directives, interview reports, complaints from consumers and consumer report applicants or subscribers, and other

pertinent documents. Such records shall be kept separate from the consumer files and shall be made available for inspection and photocopying by any authorized representative of the Federal Trade Commission upon reasonable notice at respondents' place of business or other properly designated location.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all employees now or hereafter engaged in the collecting, assembling, evaluating or furnishing of consumer information to third parties and that respondents secure a signed statement acknowledging receipt of said order from each such person.

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

It is further ordered, That each individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment as described in this order and of his new affiliation with a new consumer reporting business or employment by a consumer reporting agency. In addition, for a period of ten years from the effective date of this order, each individual respondent shall promptly notify the Commission of each affiliation with a new consumer reporting business or employment by a consumer reporting agency. Each such notice shall include the individual respondent's new business address and a statement of the nature of said business or employment in which he is newly engaged as well as a description of his duties and responsibilities in connection with said business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligations arising under this 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.

It is further ordered, That no provision of this order shall be construed in any way to annul, invalidate, repeal, terminate, modify or exempt respondents from complying with agreements, orders, or directives of any kind obtained by any other agency or act as a defense to actions instituted by municipal or state regulatory agencies. No provision of this order shall be construed to imply that

any past or future conduct of respondents complies with the rules or regulations of, or the statutes administered by the Federal Trade Commission.

Interlocutory Order

92 F.T.C.

IN THE MATTER OF

FORD MOTOR COMPANY

*Docket 9105. Interlocutory Order, Nov. 16, 1978*ORDER DIRECTING ADMINISTRATIVE LAW JUDGE TO FILE
RECOMMENDATION AND SETTING DATE FOR RESPONDENT'S
ANSWER

On November 7, 1978, complaint counsel filed with the administrative law judge (ALJ) a Motion Requesting the Commission To Seek Injunctive Relief Under Section 13(b) Of The Federal Trade Commission Act. By order dated the same day, the ALJ certified the motion to the Commission because he lacked authority to rule on the request. However, the ALJ did not include the recommendation referred to in Rule 3.22(a). By motion of November 13, 1978, respondent Ford Motor Company seeks a referral of complaint counsel's motion to the ALJ or, alternatively, an extension of Ford's time to respond to the motion to and until December 1, 1978.

While recommendations have not invariably accompanied certifications in the past, and we have not insisted on receiving them, the Commission believes that the law judge in the great majority of certified motions has a unique and valuable perspective which would assist the Commission in its consideration of such motions.

In directing the ALJ to file a recommendation, we do not mean to require that he duplicate the inquiry which the Commission itself must conduct before initiating suit under Section 13(b). Rather, our intention is to afford the ALJ an opportunity to facilitate the Commission's disposition of the motion by sharing any relevant observations he might possess on the basis of the proceedings to date. Where hearings have not yet commenced, as in this case, the ALJ's assistance to the Commission may be limited to a forecast of the duration of the administrative proceeding, enabling the Commission to weigh the need for interim relief. Thus, the scope of the ALJ's consideration of the certified motion will necessarily be a function of the extent to which he is familiar with the issues and any evidence bearing upon the motion.

Because a motion for a preliminary injunction is clearly beyond the ALJ's authority we see no need for the ALJ to afford respondent an opportunity to comment on the motion to certify. However, we will extend Ford's time for filing an answer to the motion for a preliminary injunction.

It is ordered, That the administrative law judge file his recommen-

dition with respect to the motion for a preliminary injunction with the Commission by November 27, 1978.

It is further ordered, That respondent's time for filing an answer to the motion for a preliminary injunction with the Commission be extended to and until November 27, 1978.

IN THE MATTER OF
NATIONAL COMMISSION ON EGG NUTRITION, ET AL.
MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF SECS.
5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT

Docket 8987. Decision, July 20, 1976 — Modifying Order, Nov. 17, 1978

This modified order to cease and desist replaces the order issued on July 20, 1976, 41 FR 34939, 88 F.T.C. 89. In accordance with the November 29, 1977 decision and judgment of the Court of Appeals for the 9th Circuit, as amended on December 6, 1977 (570 F.2d 157 (1977)), the instant order mandates disclosure of controversy among medical experts as to the relationship of dietary cholesterol, including that in eggs, to heart and circulatory disease only when NCEN chooses to make a representation regarding the state of the available evidence or information concerning the controversy.

MODIFIED ORDER TO CEASE AND DESIST

Respondents, having filed in the United States Court of Appeals for the Seventh Circuit petition for review of the Commission's cease and desist order issued herein on July 20, 1976; and the Court having rendered its decision modifying the Commission's order and, as so modified, affirming and enforcing the order; and the Supreme Court of the United States having denied on October 2, 1978, a petition for writ of certiorari filed by the National Commission on Egg Nutrition:

Now, therefore, it is hereby ordered, That the aforesaid order to cease and desist be, and it hereby is, modified in accordance with the decision and judgment of the Court of Appeals to read as follows:

It is ordered, That respondents National Commission on Egg Nutrition and Richard Weiner, Inc., corporations, their successors and assigns, either jointly or individually, 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 eggs for human consumption do forthwith cease and desist from:

A. Disseminating or causing the dissemination of any advertisement by means of the United States mail or by any means in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, which directly or indirectly

1. Represents that there is no scientific evidence that eating eggs increases the risk of heart attacks, heart disease, atherosclerosis, arteriosclerosis, or any attendant condition;

2. Represents that there is scientific evidence that dietary cholesterol, including that in eggs, decreases the risk of heart

attacks, heart disease, atherosclerosis, arteriosclerosis, or any attendant condition;

3. Represents that there is scientific evidence that avoiding dietary cholesterol, including that in eggs, increases the risk of heart attacks, heart disease, atherosclerosis, arteriosclerosis, or any attendant condition;

4. Represents that eating eggs does not increase the blood cholesterol level in a normal person;

5. Represents that the blood cholesterol level is prevented from being raised or lowered by dietary cholesterol intake;

6. Represents that the human body increases its manufacture of cholesterol in an amount equal to a decrease in dietary cholesterol intake;

7. Represents that the average human body eliminates the same amount of cholesterol as that eaten;

8. Represents that dietary cholesterol, including that in eggs is needed by the body for building sex hormones, for transmitting nerve impulses and for maintaining life in cells; or

9. Utilizes the name "National Commission on Egg Nutrition" unless it is clearly and conspicuously disclosed in immediate conjunction with the name that the National Commission on Egg Nutrition is composed of egg producers and other individuals and organizations of, or relating to, the egg industry.

B. Disseminating, or causing the dissemination, of any advertisement by means of the United States mail or by any means in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, which directly or indirectly

1. Represents that eating eggs does not increase the risk of heart attacks, heart disease, atherosclerosis, arteriosclerosis, or any attendant condition or

2. Makes any representation concerning the relationship of dietary cholesterol, including that in eggs, to heart attacks, heart disease, atherosclerosis, arteriosclerosis, or any attendant condition

unless it is clearly and conspicuously disclosed in immediate conjunction therewith that there is a controversy among medical experts concerning the relationship of dietary cholesterol, including that in eggs, to heart disease, and that respondents are presenting their side of that controversy.

C. Disseminating, or causing the dissemination of, any advertisement by means of the United States mail or by any means in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, which directly or indirectly

Modifying Order

92 F.T.C.

1. Represents that there exists, or describes, scientific evidence which supports the theory that consumption of dietary cholesterol, including that in eggs, does not increase the risk of heart attacks, heart disease, atherosclerosis, arteriosclerosis, or any attendant condition or

2. Makes any representation concerning the state of the available evidence or information concerning the relationship of dietary cholesterol, including that in eggs, to heart attacks, heart disease, atherosclerosis, arteriosclerosis, or any attendant condition

unless it is clearly and conspicuously disclosed in immediate conjunction therewith that many medical experts believe that existing evidence indicates that increased consumption of dietary cholesterol, including that in eggs, may increase the risk of heart disease.

D. Disseminating, or causing the dissemination of, any advertisement by means of the United States mail or by any means in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, which directly or indirectly

1. Represents as insignificant the available scientific evidence that the consumption of dietary cholesterol, including that in eggs, may increase the risk of heart attacks, heart disease, atherosclerosis, arteriosclerosis, or any attendant condition, or represents that there is overwhelming scientific evidence or otherwise misrepresents the amount of scientific evidence that eating eggs does not increase the risk of heart attacks, heart disease, atherosclerosis, arteriosclerosis, or any attendant condition.

2. Misrepresents in any manner the physiological effects of consuming dietary cholesterol or eggs.

It is further ordered, That respondents shall forthwith distribute a copy of this order to each of their operating divisions, and to all current and future members of respondent National Commission on Egg Nutrition.

It is further ordered, That each respondent notify the Commission at least thirty (30) days prior to any proposed change in its corporate structure 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 each respondent shall, within sixty (60) days after this order becomes final, file with the Commission a report, in writing, signed by respondent, setting forth in detail the

848

Modifying Order

manner and form of its compliance with the order to cease and desist.

IN THE MATTER OF
BLOCK DRUG COMPANY, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT

Docket 9050. Complaint,¹ July 29, 1975 — Decision, Nov. 17, 1978.

This consent order, among other things, requires Grey Advertising, Inc., a New York City advertising firm, to cease misrepresenting or making unsubstantiated claims regarding the performance or efficacy of denture adhesives and cleansers.

Appearances

For the Commission: *Melvin H. Orlans* and *Mark A. Heller*.

For the respondents: *Leonard Orkin* and *Stuart L. Friedel, Davis & Gilbert*, New York City.

DECISION AND ORDER

The Federal Trade Commission having issued a complaint which charges the above-named respondents with violation of the Federal Trade Commission Act; and

Respondent Grey Advertising, Inc. ("Grey") and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondent Grey of all the jurisdictional facts set forth in the aforesaid complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent Grey 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 accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby makes the following jurisdictional findings, and enters the following order:

1. Respondent Grey is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 777 Third Ave., New York, New York.

2. The Federal Trade Commission has jurisdiction of the subject

¹ Reported in 90 F.T.C. 893.

matter of this proceeding and of respondent Grey, and the proceeding against respondent Grey is in the public interest.

ORDER

It is ordered, That respondent Grey Advertising, Inc., 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 products, by the respondent in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Making any statements or representations directly or by implication concerning any performance or other characteristic or attribute of any dental product, except denture cleansers, unless respondent possessed and relied upon a reasonable basis for each such statement or representation at the time it was made or respondent can establish that it neither knew nor should have known that its basis was not reasonable.

2. Making any comparative statements or representations directly or by implication concerning any performance attribute of any competing denture cleanser products unless respondent possessed and relied upon a reasonable basis for each such statement or representation at the time it was made or respondent can establish that it neither knew nor should have known that its basis was not reasonable.

3. Misrepresenting in any manner the effectiveness of any denture adhesive product.

4. Representing, directly or by implication, that:

a. Every user of denture adhesives, regardless of his or her particular denture holding problem, can eat any of a group of so-called "problem" foods (including, for example, apples, peanuts, carrots, steak, corn-on-the-cob, celery, thick sandwiches, fried chicken and caramels) without embarrassment or discomfort; and/or

b. After the use of a denture adhesive, dentures will hold in place for every denture wearer, regardless of his or her particular denture holding problem, when the wearer eats any of the aforementioned "problem" foods.

5. As referred to herein, the term reasonable basis may consist of an opinion, where appropriate, in writing signed by a person qualified by education or experience to render the opinion that a competent scientific test(s) or other objective data exist; *provided, however,* that such opinion also discloses and describes the contents of such test(s) or other objective data.

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 respondent 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 respondent submit to the Commission, in writing, a compliance report detailing the manner and form in which it complied with this order. Such reports shall be submitted sixty (60) days after the entry of a final order and, thereafter, annually for two (2) years from the date of the first submission.

In addition, any provision of this order shall abate when inconsistent with a final Federal Trade Commission trade regulation rule if the trade regulation rule specifically authorizes any claim prohibited herein.

