

# FEDERAL TRADE COMMISSION DECISIONS

FINDINGS, OPINIONS, AND ORDERS, JANUARY 1, 1970,  
TO DECEMBER 31, 1970

## IN THE MATTER OF JOS. SCHLITZ BREWING CO.

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

*Docket C-1665. Complaint, Jan. 5, 1970—Decision, Jan. 5, 1970*

Consent order requiring a major brewery headquartered in Milwaukee, Wisc., to cease discriminating in price between competing resellers of its beer in violation of Section 2(a) of the Clayton Act.

### COMPLAINT

The Federal Trade Commission, having reason to believe that Jos. Schlitz Brewing Co., a corporation, sometimes hereinafter referred to as respondent, has violated and is now violating Section 2(a) of the Clayton Act, as amended, U.S.C., Title 15, Section 13, 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 with respect thereto as follows:

PARAGRAPH 1. Jos. Schlitz Brewing Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Wisconsin, with its office and principal place of business located at 235 West Galena Street, Milwaukee, Wisconsin.

PAR. 2. Jos. Schlitz Brewing Co. is now and for many years last past has been, primarily engaged in the domestic production, sale, and distribution of beer and related products under various brand names, including "Schlitz" and "Old Milwaukee."

Respondents annual sales of beer are substantial, and it was the Nation's second largest seller of beer in 1964 with total net sales of \$238,667,655 after deduction of Federal excise taxes.

PAR. 3. Jos. Schlitz Brewing Co. produces its various brands of beer at breweries located in Milwaukee, Wisconsin; Brooklyn, New York; Kansas City, Missouri; San Francisco, California; Van Nuys, California; Tampa, Florida; Honolulu, Hawaii, and Longview, Texas.

PAR. 4. Respondent sells and distributes its brands of beer, including "Schlitz" and "Old Milwaukee," as draught beers, *i.e.*, in kegs, and as packaged beers, *i.e.*, in bottles and cans.

It sells and distributes its various brands of beer in draught and in packages through many wholesaler-distributors located throughout the United States who resell the commodity to dealers and dispensers in their trade areas. In some metropolitan areas such as Milwaukee, Wisconsin; Chicago, Illinois; Cleveland, Ohio, and New York, New York, respondent sells and distributes its various brands of beer in draught and in packages through wholly owned branches directly to liquor stores, chain grocery stores, taverns, etc., generally termed "retailers."

PAR. 5. Jos. Schlitz Brewing Co., in the normal course and conduct of its business, is now, and for many years last past has been, selling and distributing its various brands of beer, including "Schlitz" and "Old Milwaukee," produced at its brewery located in Milwaukee, Wisconsin, to customers and purchasers located in the State of Wisconsin and in States other than the State of Wisconsin, and there is now, and has been for many years, a constant current of trade in commerce, as "commerce" is defined in the Clayton Act, in the sale of beer between and among the various States of the United States and the District of Columbia.

PAR. 6. Jos. Schlitz Brewing Co., in the course and conduct of its business in commerce, is now, and for many years has been, in substantial competition with other brewers and distributors variously engaged in the production, sale, and distribution of beer.

PAR. 7. Jos. Schlitz Brewing Co., in the course and conduct of its business in commerce, has been and is now discriminating in price, directly or indirectly, between different purchasers of its beer of like grade and quality by selling it to some of its purchasers at higher prices than to other of its purchasers.

PAR. 8. As an example of discriminations in price alleged in Paragraph Seven above, respondent Jos. Schlitz Brewing Co. is now, and for several years last past has been, discriminating in price between different purchasers of "Old Milwaukee" beer by selling it to retail-

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ers in some markets at delivered prices substantially higher than delivered prices charged retailers in Milwaukee County, Wisconsin. Included among, but not limited to, the aforesaid discriminations in price were the following:

During the period of March 19, 1962, through December 31, 1964, respondent sold, or offered to sell, "Old Milwaukee" beer in cases of twenty-four twelve ounce returnable bottles to retailers in Milwaukee County, Wisconsin, at a delivered price of \$2.10 per case plus deposit. This price of \$2.10 per case was substantially below the delivered price of \$2.90 per case plus deposit charged by respondent to retailers in Cleveland, Ohio, during the period from October 1, 1962, through February 27, 1964.

PAR. 9. As and for an additional example of the discriminations in price alleged in Paragraph Seven above, respondent is now, and for several years last past has been, discriminating in price between different purchasers of "Old Milwaukee" beer by selling it to independent wholesalers in many markets throughout the United States at f.o.b. Milwaukee prices which are substantially higher than f.o.b. Milwaukee prices charged to retailers in Milwaukee County, Wisconsin. Included among, but not limited to, the aforesaid discriminations in Price were the following:

During the period from March 19, 1962, through December 31, 1964, respondent sold, or offered to sell, "Old Milwaukee" beer in cases of twenty-four twelve ounce returnable bottles to retailers in Milwaukee County, Wisconsin, at a delivered price of \$2.10 per case plus bottle deposit of \$.60 per case. Not including respondent's costs of sale and distribution per case in Milwaukee County during 1962, 1963 and 1964, and the Wisconsin beer tax of \$.07258 per case, prices to Milwaukee retailers at respondent's Milwaukee dock amounted to \$2.29 per case in 1962, \$2.16 per case in 1963 and \$2.21 per case in 1964. These f.o.b. Milwaukee prices were substantially below f.o.b. Milwaukee prices charged by respondent to independent wholesalers in many markets throughout the United States into which "Old Milwaukee" beer was shipped from respondent's Milwaukee brewery in cases of twenty-four twelve ounce returnable bottles during the period from March 19, 1962, through December 31, 1964.

PAR. 10. The effect of respondent's discriminations in price, as alleged in Paragraphs Seven, Eight and Nine above, has been or may be to substantially disrupt those markets in which "Old Milwaukee" beer was sold at discriminatory prices by diverting substan-

## Decision and Order

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tial business from competitors of respondent in those markets to respondent, to further disrupt those markets by diverting substantial business from competitors of respondent in those markets to respondent in the future, to create the reasonable probability that the effect of respondent's said discriminations in price may be substantially to lessen competition in the line of commerce in which respondent and its competitors are engaged, or tend to create a monopoly in the line of commerce in which respondent and its competitors are engaged, or to injure, destroy, or prevent competition with respondent in the manufacture, sale, and distribution of beer.

PAR. 11. The foregoing alleged discriminations in price made by respondent Jos. Schlitz Brewing Co. are in violation of Section 2(a) of the Clayton Act, as amended.

## DECISION AND ORDER

The Commission heretofore determined to issue its complaint charging the respondent named in the caption hereof with violation of subsection (a) of Section 2 of the Clayton Act, as amended, and the respondent was 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.

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

The Commission considered the agreement and provisionally accepted it. The agreement containing consent order was thereupon placed on the public record for a period of thirty (30) days, pursuant to the procedure prescribed in § 2.34(b) of the Commission's Rules. During this period and a subsequent ten (10) days extension, the Commission received several comments from interested members of the public concerning the adequacy of the order. All comments have become part of the public record of the proceeding.

The consensus of the commentators was that the proposed order, which is limited to respondent's sales as a wholesaler directly to re-

tailers, through its own marketing branches located in or near a number of major metropolitan markets, was inappropriate in that it would not cover respondent's sales to independent wholesalers who, in turn, re-sell respondent's products to retailers.

The Commission has reconsidered the proposed agreement, in light of the comments submitted thereon, and has decided to accept said agreement, having determined that if the facts so warrant, Schlitz' pricing practices to wholesalers may more appropriately be made the subject of a separate investigation.

Now, in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint in the form contemplated by the aforementioned agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Jos. Schlitz Brewing Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Wisconsin, with its office and principal place of business located at 235 West Galena Street, in the city of Milwaukee, State of Wisconsin.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent.

#### ORDER

*It is ordered*, That the respondent, Jos. Schlitz Brewing Co., a corporation, and its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the sale or offering for sale of beer, as "beer" is defined in Title 26 U.S.C. § 5052(a), in commerce as "commerce" is defined in the Clayton Act, do forthwith cease and desist from:

Discriminating, directly or indirectly, in the price of beer of like grade, quality and packaging by selling such packages as a wholesaler to any retailer in any city or definable market area served by one of respondent's breweries in which respondent is in competition with another seller at a price (exclusive of freight, State taxes and State bottle charges) which is lower than the price for such package charged by respondent to any other retailer in that or any other city or definable market area within the primary plant pattern of the same brewery, when respondent knows or should know that such lower price is less than the price at which the retailer charged the lower price may purchase beer from another seller in the same package produced by a regional or national brewer having a substan-

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tially smaller annual volume of sales of beer than respondent: *Provided, however*, That in addition to the defenses set forth in Sections 2(a) and 2(b) of the statute it shall be a defense in any enforcement proceeding instituted hereunder for respondent to establish that its lower price was the result of a promotional offer involving a price concession which does not undercut, or which respondent reasonably believed did not undercut, the lowest net price and/or the terms and conditions of sale resulting from a promotional offer made, within the previous six months, to the purchaser receiving the lower price by any other seller of a competitive product produced by a regional or national brewer.

This order shall not apply to respondent's "Burgermeister" brand of beer during such period of time as respondent is subject to judicially decreed divestiture of the "Burgermeister assets," or to the purchaser or purchasers of such assets from respondent pursuant thereto.

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

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IN THE MATTER OF

BEST HOMES, ET AL.

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

*Docket C-1666. Complaint, Jan. 6, 1970—Decision, Jan. 6, 1970*

Consent order requiring six contractors in the custom-built residential housing business located in Pennsylvania and New Jersey to cease using bait tactics, failing to quote terms on houses illustrated in brochures, implying

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that unfinished houses are complete, failing to include all items in quoted prices, using deceptive guarantees, and misrepresenting that certain extras are cost free.

## 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 Best Homes, a partnership, and Best Builders of Pennsylvania, Inc., Classic Builders of Pennsylvania, Inc., Classic Homes, Inc., Best Quality Homes of New Jersey, Inc., Classic Builders of New Jersey, Inc., corporations, and Edward B. Meyers and Irvin Robbins, individually and as copartners trading and doing business as Best Homes and as officers of said corporations, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Best Homes is a partnership comprised of the individuals whose names are hereinafter set forth. The principal office and place of business of said partnership is located at Route #202, in the town of Center Square, State of Pennsylvania.

Best Builders of Pennsylvania, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located at the above stated address.

Classic Builders of Pennsylvania, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located at the above stated address.

Classic Homes, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located at the above stated address.

Best Quality Homes of New Jersey, 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 153 Market Street, in the city of Paterson, State of New Jersey.

Classic Builders of New Jersey, 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 153 Market Street, in the city of Paterson, State of New Jersey.

Respondents Edward B. Meyers and Irvin Robbins are individuals and copartners trading and doing business as Best Homes and are officers of the corporate respondents. They formulate, direct and control the acts and practices of said partnership and each of the corporate respondents, including the acts and practices hereinafter set forth. Their address is at Route #202 in the town of Center Square, State of Pennsylvania.

The aforementioned respondents cooperate and act together in carrying out the acts and practices hereinafter set forth.

PAR. 2. Respondents are now and for some time last past have been engaged in the advertising, offering for sale, sale and construction of custom-built residential houses to the public.

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

PAR. 4. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of their products, respondents have made numerous statements and representations in newspaper and magazine advertisements and in the oral sales presentations made by their representatives, agents or employees with respect to the nature of their offer, the terms and conditions of sale, financing requirements, degree of completion and other characteristics of their products.

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

You'll never believe how its possible for BEST HOMES to give you a fabulous custom-built home like this, 100% complete and ready to move into, for as little as \$64 a month until you see for yourself. So See! Send for the FREE full-color Best Homes catalog of plans, illustrations, and price list or call collect CHEstnut Hill 7-7310 (PICTURE OF BRANDYWINE 50' MODEL)

. . . and Visit this home, fully furnished, at our sample location on Route 202, in Gwynedd, Pennsylvania, 7 miles north of Norristown.

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BEST HOMES and FRIGIDAIRE have teamed up to bring this great new home value to LOT OWNERS

(PICTURE OF AMERICANA MODEL)

As Low As \$69 per month

The Americana Completely Finished  
 ALL-BRICK RANCHER  
 ALL-Brick Maintenance-Free Construction  
 3 Bedroom—Beautiful Ceramic Tile Bath  
 with Vanette—Full Basement—Steel Beams—Cement Block Foundation—custom-built complete on your lot—just move in!

FREE FRIGIDAIRE  
 Limited Offer APPLIANCES  
 Included at No Extra Cost

(Picture of range and oven)

(Picture of Refrigerator)

(Picture of Garbage Disposal)

(Picture of Dishwasher)

(Picture of Washer and Dryer)

NO MONEY DOWN 25-year open end mortgage

LOT OWNERS!!

Complete Custom-Built Home On Your Lot

COMPLETE—ALL You Do Is Move In—COMPLETE  
 (Picture of the AMERICANA Model)

ALL BRICK RANCHER

As Low As \$69 per month

- \* All Brick Maintenance—Free Construction
- \*3 Bedrooms—Ceramic Tile Bath with Vanette
- \*Full Basement—Cement Block Foundation—Steel Beams

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NO MONEY DOWN

LOT OWNERS

Complete Custom-Built Home On Your Lot  
**COMPLETE—ALL You Do Is MOVE IN—COMPLETE**

(Picture of Valley Forge Model)

As Low As  
 \$69 per month

\*Stone Front \*4 Large Bedrooms  
 \*2½ Ceramic Tile Baths \*Panelled  
 Den \*Garage \*Hot Water Baseboard Heat  
 \*Full Basement \*Cement Block  
 Foundation \*Steel Beams.

NO MONEY DOWN

Best Homes fully guarantee your home  
 for one year. . . .

PAR. 5. By and through the use of the aforesaid pictures, statements and representations, and others of similar import and meaning, but not specifically set out herein, separately and in connection with oral statements and representations by their representatives, agents and employees to customers and prospective customers, respondents represent and have represented, directly or by implication, that:

1. The offer set forth in such advertisements is a genuine and bona fide offer to sell houses of the kind illustrated and described on the terms and conditions therein stated.
2. Houses of the kind illustrated and described are offered for sale on monthly terms as low as \$69 and \$64.
3. A complete, custom-built house of the kind illustrated and described is offered for sale on the terms and conditions stated.
4. Respondents' houses are unconditionally guaranteed for a period of one year.
5. Respondents offer a house of the kind illustrated and described and respondents' other houses with free appliances at no extra cost.

PAR. 6. In truth and in fact:

1. Said offer set forth is not a genuine or bona fide offer to sell houses of the kind illustrated and described in said advertisements on the terms and conditions stated.

Said offer was made for the purpose of obtaining leads as to persons interested in the purchase of respondents' products. After obtaining such leads, respondents' representatives call upon such prospective purchasers or negotiate with such purchasers in the offices

or places of business of respondents and at such times and places make no effort to sell the houses on the terms and conditions stated but induce such purchasers to purchase their houses under terms and conditions different from the stated terms and conditions.

2. Houses of the kind illustrated and described are not offered for sale on monthly terms as low as \$69 and \$64. The monthly payments for the pictured houses would be substantially higher.

3. A complete, custom-built house of the kind illustrated and described is not offered for sale on the terms and conditions stated. The illustrated and described house which is offered for sale does not include all of the various items normally included in a complete home, such as interior painting, drive ways, front walks and landscaping. Such items are obtained only at extra cost to the purchaser.

4. Respondents' houses are not unconditionally guaranteed for a period of one year. Such guarantee is subject to numerous terms, conditions and limitations and fails to set forth the nature and extent of the guarantee and the manner in which the guarantor will perform thereunder.

5. Respondents do not offer a house of the kind illustrated and described and respondents' other houses with free appliances at no extra cost. The appliances are not free and are additional items to be obtained at extra cost to the purchaser.

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

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

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

PAR. 9. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and decep-

tive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

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

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

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

1. Proposed respondent Best Homes is a partnership comprised of the individuals whose names are hereinafter set forth. The principal office and place of business of said partnership is located at Route #202 in the town of Center Square, State of Pennsylvania.

Proposed respondent Best Builders of Pennsylvania, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its office and principal place of business located at the above stated address.

Proposed respondent Classic Builders of Pennsylvania, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its office and principal place of business located at the above stated address.

Proposed respondent Classic Homes, Inc., is a corporation organized, existing and doing business under and by virtue of the laws

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of the State of Pennsylvania, with its office and principal place of business located at the above stated address.

Proposed respondent Best Quality Homes of New Jersey, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at 153 Market Street, in the city of Paterson, State of New Jersey.

Proposed respondent Classic Builders of New Jersey, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at 153 Market Street, in the city of Paterson, State of New Jersey.

Proposed respondents Edward B. Meyers and Irvin Robbins are individuals and copartners trading and doing business as Best Homes and are officers of each of the aforesaid corporations. They formulate, direct and control the policies, acts and practices of said partnership and of said corporations. Their address is Route #202 in the town of Center Square, State of Pennsylvania.

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

## ORDER

*It is ordered,* That respondents Best Homes, a partnership, and Best Builders of Pennsylvania, Inc., Classic Builders of Pennsylvania, Inc., Classic Homes, Inc., Best Quality Homes of New Jersey, Inc., and Classic Builders of New Jersey, Inc., corporations, and their respective officers, and Edward B. Meyers, and Irvin Robbins, individually and as copartners trading and doing business as Best Homes, or under any other trade name or names, and as officers of each of said corporations, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution or construction of houses, or other structures or products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using, in any manner, a sales plan, scheme or device wherein false, misleading or deceptive statements or representations are made in order to obtain leads or prospects for the sale of houses.
2. Making representations purporting to offer houses for sale when the purpose of the representation is not to sell the offered

house but to obtain leads or prospects for the sale of other houses.

3. Representing, directly or by implication, that any houses are offered for sale when such offer is not a bona fide offer to sell such houses.

4. Representing, directly or by implication, that houses are offered for sale on certain stated terms unless such house may be purchased on the stated terms.

5. Illustrating or describing a higher priced home in conjunction with the terms of a lower priced home.

6. Failing to quote and to disclose in advertising and promotional material the terms for an illustrated or described home with equal size and conspicuousness as the terms quoted for any other home.

7. Representing, directly or by implication, that respondents' houses are complete, or finished to any degree of completeness, unless the house is completed or finished to the extent or degree represented.

8. Quoting prices, terms or conditions in advertising which does not include all of the significant features of the house or other products illustrated or described.

9. Representing, directly or by implication, that any of the respondents' houses or components of its houses are guaranteed unless the nature, extent and duration of the guarantee, the identity of the guarantor and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed in immediate conjunction therewith; *Provided, however*, that this paragraph shall not apply to any now-existing copies of brochures which are distributed within one year following the effective date of this order.

10. Representing, directly or by implication, that appliances or other equipment, parts or accessories are free or at no extra cost to purchasers of respondents' products, unless said appliances, equipment, parts or accessories are free or without additional cost.

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

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12. Failing, after the acceptance of the initial report of compliance, to submit a report to the Commission, once every year during the next three years, describing all complaints respecting unauthorized representations, all complaints received from customers respecting representations by salesmen which are claimed to be deceptive, the acts uncovered by respondents in their investigation thereof and the action taken by respondents with respect to each such complaint.

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

## IN THE MATTER OF

JAMES A. POVICH TRADING AS

## CAPITOL SEWING MACHINE SALES OF MARYLAND

CONSENT ORDER, ETC.,

IN REGARD TO THE ALLEGED VIOLATION OF  
THE FEDERAL TRADE COMMISSION ACT*Docket C-1667. Complaint, Jan. 6, 1970—Decision, Jan. 6, 1970*

Consent order requiring a Baltimore, Md., distributor of new and used sewing machines to cease using bait tactics and fictitious pricing and savings claims, deceptively guaranteeing its products, and failing to maintain adequate records.

## 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 James A. Povich, an individual, formerly trading and doing business as Capitol Sewing Machine Sales of Baltimore, and now trading and doing business as Capitol Sewing Machine Sales of Maryland, hereinafter referred to as respondent, has violated the provisions of said Act, and

it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent James A. Povich is an individual, formerly trading and doing business as Capitol Sewing Machine Sales of Baltimore, and now trading and doing business as Capitol Sewing Machine Sales of Maryland, with his office and principal place of business located at 930-32 West Patapsco Avenue, in the city of Baltimore, State of Maryland.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the advertising, offering for sale, sale and distribution of new and used sewing machines and related products to the public.

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

PAR. 4. In the course and conduct of his aforesaid business, and for the purpose of inducing the purchase of his products, respondent has made, and is now making, numerous statements and representations in the oral sales presentations made by his salesmen to prospective purchasers and to purchasers and in advertisements inserted in newspapers of general circulation and in promotional material with respect to the kind, quality, price, savings, guarantees and credit of his merchandise.

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

SEWING MACHINE

1968 Singer Console

Slightly used zig-zag in style walcab. Does everything without attach. (Sews on-buts., makes button holes, overcasts, appliques and darns.) Controls built in. Full price \$56.70 or assume pymts, of \$5.67 mo. Call Credit Mgr. till 9 P.M. for no oblig. home demo. 628-6706.

CAPITAL SEWING MACHINE  
SALES OF MARYLAND

\* \* \* \* \*

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Complaint

## SEWING MACHINE

1968 Zig-Zag

Zig-Zag portable, slightly used. Make but. holes, monogram, overcast, blind hemstitch without attach. Sews with 1 or 2 needles. Good cond. Full price \$34.70 or assume pymts. of \$3.47 a mo. For free home demo. call Credit Mgr. till 9 P.M. No oblig. 628-6706.

CAPITOL SEWING MACHINE  
SALES OF MARYLAND

\* \* \* \* \*

However, a CAPITOL sewing machine \* \* \* carries a 5 year guarantee and does everything but bait hooks.

PAR. 5. By and through the use of the above-quoted statements and representations, and others of similar import and meaning but not expressly set out herein, separately and in connection with oral statements and representations by his salesmen and representatives, respondent has represented, and is now representing, directly or by implication:

1. Through the use of the phrase or words "assume pymts." separately and in connection with the words "Credit Mgr." and other phrases and words of similar import, that sewing machines, partially paid for by a previous purchaser, have been repossessed and are being offered for sale for the unpaid balance of the purchase price.

2. That he is making bona fide offers to sell repossessed sewing machines, as described in said advertisements, for reason of default in payment by the previous purchaser and on the terms and conditions stated.

3. That respondent's merchandise is being offered for sale at special or reduced prices, and that savings are thereby afforded to purchasers from respondent's regular selling prices.

4. That a Capitol sewing machine is guaranteed for a period of five years without condition or limitation.

PAR. 6. In truth and in fact:

1. In few, if any, instances are the advertised products repossessed sewing machines being offered for the unpaid balance of the original purchase price, or a portion thereof.

2. Respondent is not making bona fide offers to sell repossessed sewing machines on the terms and conditions stated; but said offers are made for the purpose of obtaining leads as to persons interested in the purchase of sewing machines. After obtaining leads through responses to said advertisements, respondent or his salesmen call upon such persons but make no effort to sell advertised sewing ma-

chines. Instead, they exhibit sewing machines which are in such poor condition as to be unusable or undesirable, and disparage the advertised product to discourage its purchase, and attempt, and frequently do, sell much higher priced sewing machines.

3. Respondent's merchandise is not being offered for sale at special or reduced prices, and savings are not thereby afforded respondent's customers because of a reduction from respondent's regular selling prices. In fact, respondent does not have a regular selling price but the price at which respondent's merchandise is sold varies from customer to customer depending upon the resistance of the prospective purchaser.

4. A Capitol sewing machine is not guaranteed in every respect without conditions or limitations for a period of five years. The guarantee, that may be furnished in connection therewith, is subject to numerous terms, conditions and limitations and fails to set forth the nature and extent of the guarantee, the identity of the guarantor and the manner in which the guarantor will perform thereunder.

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

PAR. 7. In the course and conduct of his aforesaid business, and at all times mentioned herein, respondent has been, and now is, in substantial competition, in commerce, with corporations, firms and individuals in the sale of sewing machines and related products of the same general kind and nature as those sold by respondent.

PAR. 8. The use by respondent 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 respondent's products by reason of said erroneous and mistaken belief.

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

#### DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption

## Order

hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Deceptive Practices proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

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

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

1. Respondent James A. Povich, an individual, formerly trading and doing business as Capitol Sewing Machine Sales of Baltimore, and now trading and doing business as Capitol Sewing Machine Sales of Maryland, is a proprietorship with its office and principal place of business located at 930-32 West Patapsco Avenue, in the city of Baltimore, State of Maryland.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

## ORDER

*It is ordered,* That respondent James A. Povich, an individual, formerly trading and doing business as Capitol Sewing Machine Sales of Baltimore, and now trading and doing business as Capitol Sewing Machine Sales of Maryland or under any other name or names, and respondent's agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of sewing machines and related products, in commerce, as "commerce" is defined

in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that sewing machines or other products have been repossessed or in any manner reacquired from a former purchaser, or are being offered for sale for the unpaid balance, or any portion thereof, of the original purchase price, or for the amount or any portion of the amount owed by a former purchaser, unless said advertised products actually were of the character stated and were offered for sale and sold on the terms and conditions represented.

2. Representing, directly or by implication, that any products are offered for sale when such offer is not a bona fide offer to sell said products on the terms and conditions stated; or using any sales plan or procedure involving the use of false, deceptive or misleading statements to obtain leads or prospects for the sale of other merchandise.

3. Advertising or offering any product for sale, unless the product shown or demonstrated to the prospective purchaser does in all respects conform to the representations and description thereof as contained in the advertisement or offer.

4. Using any deceptive sales scheme or device to induce the sale of the products or services offered by respondent.

5. Representing, directly or by implication, that any price for respondent's products is a special or reduced price, unless such price constitutes a significant reduction from an established selling price at which such products have been sold in substantial quantities by respondent in the recent regular course of his business.

6. Representing, directly or by implication, that any savings, discount or allowance is given purchasers from respondent's selling price for specified products, unless said selling price is the amount at which such products have been sold or offered for sale in good faith by respondent for a reasonably substantial period of time in the recent regular course of his business.

7. Misrepresenting, in any manner, the amount of savings available to purchasers or prospective purchasers of respondent's merchandise at retail.

8. Failing to maintain adequate records (a) which disclose the facts upon which any savings claims, including former pricing claims and comparative value claims, and similar representations of the type described in Paragraphs 5 through 7 of this

## Complaint

order are based, and (b) from which the validity of any savings claims, including former pricing claims and comparative value claims, and similar representations of the type described in Paragraphs 5 through 7 of this order can be determined.

9. Representing, directly or by implication, that respondent's products are guaranteed unless the nature, extent and duration of the guarantee, the identity of the guarantor and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed in immediate conjunction therewith.

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

*It is further ordered,* That the respondent shall notify the Commission at least thirty (30) days prior to any proposed change in his business organization such as dissolution, assignment, incorporation or sale resulting in the emergence of a successor corporation or partnership or any other change which may affect compliance obligations arising out of this order.

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

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 IN THE MATTER OF

## HOUSE OF CARPETS, INC., ET AL.

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

*Docket C-1668. Complaint, Jan. 14, 1970—Decision, Jan. 14, 1970*

Consent order requiring an El Paso, Texas, marketer of carpets and rugs to cease falsely advertising and misbranding its textile fiber products, making deceptive pricing, savings and guarantee representations, and failing to disclose all details of its "free" offers.

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Textile Fiber Products Identification Act, and by virtue of

the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that House of Carpets, Inc., a corporation, and Gilbert Malooly, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Textile Fiber Products Identification Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its charges in that respect as follows:

PARAGRAPH 1. Respondent House of Carpets, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas, with its office and principal place of business located at 601 North Oregon Street, El Paso, Texas.

Respondent Gilbert Malooly is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation and his office and principal place of business is located at the same address as that of the corporate respondent.

Respondents are engaged in the sale of carpets and rugs to the consuming public and building contractors. A few accommodation sales are made to other retailers. The respondents' trading area includes parts of the States of Texas, New Mexico and Arizona.

PAR. 2. Respondents are now and for some time last past have been engaged in the introduction, delivery for introduction, sale, advertising, and offering for sale, in commerce, and in the transportation or causing to be transported in commerce, and in the importation into the United States of textile fiber products; and have sold, offered for sale, advertised, delivered, transported and caused to be transported, textile fiber products, which have been advertised or offered for sale in commerce; and have sold, offered for sale, advertised, delivered, transported and caused to be transported, after shipment in commerce, textile fiber products, either in their original state, or contained in other textile fiber products; as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act.

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

Among such misbranded textile fiber products, but not limited

thereto, were floor coverings which were falsely and deceptively advertised in the El Paso Times, a newspaper published in the city of El Paso, Texas, and having a wide circulation in the said State and various other States of the United States.

Also among such misbranded textile fiber products, but not limited thereto, were textile fiber products, namely floor coverings, which were falsely and deceptively advertised by means of the aforesaid advertisements and others of similar import and meaning not specifically referred to herein, in that said floor coverings containing exempted backings, fillings or paddings, were described therein as "100% Continuous Filament Nylon" or "100% Nylon" without a disclosure that such fiber content information applied only to the face, pile or outer surface of the floor coverings and not to the exempted backings, fillings or paddings. Such failure to disclose a material fact was to the prejudice of respondents' customers and the purchasing public and constituted false and deceptive advertising under Section 4(a) of the Textile Fiber Products Identification Act.

PAR. 4. Certain of said textile fiber products were falsely and deceptively advertised in that respondents in making disclosures or implications as to the fiber content of such textile fiber products in written advertisements used to aid, promote and assist directly or indirectly in the sale or offering for sale of said products, failed to set forth the required information as to fiber content as specified by Section 4(c) of the Textile Fiber Products Identification Act and in the manner and form prescribed by the Rules and Regulations promulgated under said Act.

Among such textile fiber products, but not limited thereto, were floor coverings which were falsely and deceptively advertised by means of advertisements placed by the respondents in the El Paso Times, published in El Paso, Texas, and having a wide circulation in said State and various other States of the United States, in that the true generic names of the fibers in such floor coverings were not set forth.

PAR. 5. By means of the aforesaid advertisements and others of similar import and meaning not specifically referred to herein, respondents falsely and deceptively advertised textile fiber products in violation of the Textile Fiber Products Identification Act in that said textile fiber products were not advertised in accordance with the Rules and Regulations promulgated thereunder in the following respects:

1. In disclosing the required fiber content information as to floor

coverings containing exempted backings, fillings, or paddings, said disclosure was not made in such a manner as to indicate that such required fiber content information related only to the face, pile, or outer surface of the floor coverings and not to the backings, fillings, or paddings, in violation of Rule 11 of the aforesaid Rules and Regulations.

2. A fiber trademark was used in advertising textile fiber products, namely floor coverings, containing only one fiber and such fiber trademark did not appear, at least once in the said advertisements, in immediate proximity and conjunction with the generic name of the fiber, in plainly legible and conspicuous type, in violation of Rule 41(c) of the aforesaid Rules and Regulations.

PAR. 6. The acts and practices of the respondents, as set forth above, were and are in violation of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder, and constituted and now constitute, unfair methods of competition and unfair and deceptive acts and practices, in commerce, under the Federal Trade Commission Act.

PAR. 7. Respondents are now and for some time last past have been engaged in the advertising, sale, offering for sale, and distribution of floor coverings, and other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act.

In the course and conduct of their business, respondents have advertised their products in the "El Paso Times," a newspaper published in El Paso, Texas, and having a wide circulation in said State and various other States of the United States.

Also in the course and conduct of their business, respondents now cause, and for some time last past have caused, their said products, when sold, to be shipped from their place of business in the State of Texas to purchasers thereof located in various other States of the United States.

The 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. 8. Respondents in the course and conduct of their business, as aforesaid, have made guaranty statements in the El Paso Times, a newspaper published in El Paso, Texas, advertising their textile fiber products, namely, floor coverings, as: "Ten Year Wear Guarantee." "Fifteen Year Wear Guarantee."

PAR. 9. Through the use of such statements and representations as set forth above, and others similar thereto, but not specifically set out

herein, the respondents have represented, directly or indirectly, to the purchasing public, that said floor coverings were unconditionally guaranteed for ten years and fifteen years respectively.

PAR. 10. In truth and in fact, said floor coverings were not unconditionally guaranteed for ten years and fifteen years respectively and the nature and extent of the guarantee and the manner in which the guarantor would perform were not set forth in connection therewith. Moreover, the name and address of the guarantor were not set forth as required. Therefore, the statements and representations made by the respondents, as hereinbefore stated, were and are, false, misleading and deceptive.

PAR. 11. Respondents in the course and conduct of their business, as aforesaid, have made certain statements with respect to the pricing of their textile fiber products, namely, floor coverings, in the El Paso Times. Among and typical, but not all inclusive of such statements are the following:

100% Continuous Filament Nylon, \$2.88 sq. yd., Values to \$7.95.  
 100% Commercial Filament Nylon, \$3.95 sq. yd., Values to \$9.95.  
 100% Continuous Filament Nylon, \$4.88 sq. yd., Values to \$11.95.  
 Steals of a Lifetime, Values to \$4.00, Your Choice, \$1.00 sq. yd.  
 Closing Out!!! Values to \$10.00, Your Choice, \$4.00 sq. yd.  
 Steals of a Lifetime, Values to \$13.00, Your Choice, \$6.00 sq. yd.  
 Values to \$6.00, Your Choice, \$2.00 sq. yd.  
 Values to \$12.00, Your Choice, \$5.00 sq. yd.  
 Values to \$14.00, Your Choice, \$7.00 sq. yd.  
 Values to \$8.00, Your Choice, \$3.00 sq. yd.  
 Value to \$20.00, Your Choice, \$8.00 sq. yd.

PAR. 12. By and through the use of the above higher price representations in connection with the term value and a corresponding lower price, the respondents represented that the said higher prices were the prices at which the said products were usually and customarily sold at retail in the recent, regular course of business in the respondents' trade area and that the difference between the higher and lower prices represented a savings to the purchasers of the said products.

PAR. 13. In truth and in fact, the said higher prices were not the prices at which the said products were usually and customarily sold at retail in the recent regular course of business in the respondents' trade area but were in excess of such usual and customary prices and savings were not afforded the purchasers of such products as represented.

PAR. 14. In the further course and conduct of their aforesaid business, and for the purpose of inducing the purchase of their said

products, respondents have made certain other statements with respect to the pricing of their textile fiber products, namely, floor coverings, in the El Paso Times. Among and typical, but not all inclusive of such statements are the following:

- Limited Supply, 9x12 Braid Rugs, Reg. \$39.95, Limit One to a Customer, Full Price \$11.00.
- Limited Supply! 9x12 Mohawk Axminster Rugs, Reg. \$99.95, Limit One to a Customer, Full Price \$48.88.
- Limited Supply! 9x12 Hand-Made Wool Genuine Oriental Rugs, Reg. \$800.00, Limit One to a Customer, Full Price \$395.00.
- Limited Supply, 9x12 Mill Trial Rugs, Reg. \$29.95, Limit One to a Customer, Full Price \$9.00.
- Limited Supply! 9x12 Rug Pads, Reg. \$9.88, Limit One to a Customer, Full Price \$2.88.
- Limited Supply! 3x5 Fringed Area Rugs, Reg. \$29.95, Limit One to a Customer, Full Price \$9.95.

PAR. 15. By and through the use of the above statements and others of similar import not specifically set out herein, respondents have represented, directly or by implication, that the higher stated prices set out in said advertisements were the prices at which the said products were sold or offered for sale by respondents, in good faith, for a reasonably substantial period of time in the recent, regular course of their business, and that the prices of respondents' products were reduced from the higher stated prices and the amounts of such reductions represented savings to the purchasers thereof.

PAR. 16. In truth and in fact, the higher prices set out in said advertisements were not the prices at which the said products were sold or offered for sale by respondents, in good faith, for a reasonably substantial period of time in the recent, regular course of their business, and the prices of respondents' products were not reduced from such higher prices and savings were not afforded the purchasers of such products as represented.

PAR. 17. Further in the course and conduct of their business, and for the purpose of inducing the sale of their products, respondents have made certain other statements with respect to their textile fiber products, namely floor coverings, in the El Paso Times. Among and typical, but not all inclusive of such statements are the following:

Free (In very large type).

Of Extra Charge (In smaller type).

Two Bedrooms Full of Carpet. Offer Includes Padding, Installation and 500 Mile Delivery (Up to 30 sq. yds.) With the Purchase of Living Room, Dining Room and Hall Carpet for as Little as \$188.00 (Minimum of 40 sq. yds.) (In small print).

Buy Your Living Room, Dining Room and Hall Carpet (A minimum of 40 sq. yds.) For as Little as \$188.00 and Get Two Bedrooms Carpeted Free (of extra charge up to 30 sq. yds.). Value of free carpet is \$199.00.

Five Rooms Carpeted Wall-to-Wall for the Price of 1.

Attention Carpet Customers, Place your orders now! Receive Your Free Bedroom Carpet. In Addition receive free of Extra Charge finest quality padding, installation, free 500 mile delivery and service after the sale.

Hundreds of Carpet Styles and Patterns to choose from. All nationally famous brand carpets and all at great savings! Buy with cash or use our convenient credit plan! Pay the average price for one room of carpet and get all five carpeted for only \$188.00.

PAR. 18. By and through the use of said statements the respondents have made confusing and contradictory representations as to the availability of "free" carpeting, which statements lend themselves to differing interpretations and to the confusion of the purchasing public.

PAR. 19. In truth and in fact, all of the conditions, obligations, and prerequisites to the receipt and retention of "free" carpeting by the purchasers thereof were not clearly and conspicuously set forth. Therefore, the aforesaid representations were false, deceptive and misleading.

PAR. 20. The aforesaid acts and practices of the respondents, as herein alleged in Paragraphs Eight through Nineteen, were and are, all to the prejudice and injury of the public, and constituted, and now constitute, unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

#### DECISION AND ORDER

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

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

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

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

1. Respondent House of Carpets, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas, with its office and principal place of business located at 601 North Oregon Street, El Paso, Texas.

Respondent Gilbert Malooly is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation and his address is the same as that of said corporation.

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

## ORDER

*It is ordered.* That respondents House of Carpets, Inc., a corporation, and its officers, and Gilbert Malooly, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by falsely or deceptively stamping, tagging, labeling, invoicing, advertising or otherwise identifying such products as to the name or amount of the constituent fibers contained therein.

B. Falsely and deceptively advertising textile fiber products by:

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

2. Failing to set forth in disclosing the required fiber content information as to floor coverings containing exempted backings, fillings or paddings, that such disclosure relates only to the face, pile or outer surface of such textile fiber products and not to the exempted backing, fillings or paddings.

3. Using a fiber trademark in advertising textile fiber products containing only one fiber without such fiber trademark appearing at least once in the advertisement in immediate proximity and conjunction with the generic name of the fiber in plainly legible and conspicuous type.

*It is further ordered,* That respondents House of Carpets, Inc., a corporation, and its officers, and Gilbert Malooly, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the advertising, sale, offering for sale, or distribution of floor coverings, or other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing that any of respondents' products are guaranteed, unless the nature and extent of the guarantee, the name of the guarantor, the address of the guarantor and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed in immediate conjunction therewith.

2. Representing directly or by implication that any price is the retail price or value of any such product when such price or

