

## Complaint

IN THE MATTER OF

## STANDARD REFERENCE LIBRARY, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF  
THE FEDERAL TRADE COMMISSION ACT*Docket C-1771. Complaint, July 17, 1970—Decision, July 17, 1970*

Consent order requiring a New York City publisher and distributor of various reference works by mail order to cease mailing reference volumes to persons who have failed to return their previously mailed rejection cards, deceptively pricing its books, and misrepresenting savings available to respondents' customers.

## 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 Standard Reference Library, Inc., a corporation, and Frank J. Keller, individually and as an officer of said corporation, and Mac Gache, individually and as former officer of Standard Reference Works Publishing Company, Inc., a corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Standard Reference Library, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 53 East 77th Street, New York, New York.

Respondent Frank J. Keller is an officer of corporate respondent Standard Reference Library, Inc. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. He was also an officer of Standard Reference Works Publishing Company, Inc., as hereinafter mentioned.

Standard Reference Works Publishing Company, Inc., was a corporation which was organized, existed and did business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 53 East 77th Street, New York, New York. This corporation was engaged in the business hereinafter described for some time prior to September 9, 1968,

when its assets were sold to corporate respondent Standard Reference Library, Inc., and subsequently was dissolved.

Respondents Mac Gache and Frank J. Keller were officers of Standard Reference Works Publishing Company, Inc., when it was actively engaged in business. They formulated, directed and controlled the acts and practices of this corporation, including the acts and practices hereinafter set forth. Their address is the same as that of corporate respondent Standard Reference Library, Inc.

PAR. 2. Standard Reference Works Publishing Company, Inc., and respondents Mac Gache and Frank J. Keller for some time prior to September 9, 1968, had been engaged in the publishing, advertising, offering for sale, sale and distribution of various reference works by mail order to the general public. Among these works were "The Family Physician," "The Family Legal Adviser" and the "Standard Treasury of the World's Great Paintings." Since September 9, 1968, the same business activities have been carried on by respondents Standard Reference Library, Inc., and Frank J. Keller.

PAR. 3. In the course and conduct of their business as aforesaid, respondents Standard Reference Library, Inc., and Frank J. Keller now cause, and since September 9, 1968, have caused, and Standard Reference Works Publishing Company, Inc., and respondents Mac Gache and Frank J. Keller for some time prior to said date had caused, their said products, when sold, to be shipped from their place of business in the State of New York to purchasers thereof located in various other States of the United States, and 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 "The Family Physician" and the other books hereinbefore named, respondents distribute and have distributed by mail to prospective purchasers sales promotional material in which the recipient is advised that the book will be mailed to him for free examination unless he stops shipment by returning an enclosed "Rejection Postcard" stating "I am not interested in examining your current offer" not later than three weeks from respondents' date of mailing indicated thereon. If the recipient fails to mail the rejection postcard, or fails to mail it in time, the book is sent to him with an invoice stating the amount due which includes the price of the book and postage.

Where the book is neither returned nor paid for, respondents send

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letters urging payment or its return. Among and typical of statements contained in such letters are the following:

## Letter #1

Did you receive the volume of the STANDARD HOME LIBRARY which we shipped you, on approval, about six weeks ago? We ask this question because we have not received either payment for the book, nor did we get the book back.

If you did receive it, we must know as quickly as possible whether or not you wish to keep it. If your decision is "no", please send it back at once. The demand for books from other subscribers is much greater than the few copies we still have on hand.

In the event you decide to keep it, and are ready to remit payment, we have enclosed a duplicate invoice. Please return it with your remittance, so that your account can be properly credited.

Special Service Division.

## Letter #2

We wrote you about three weeks ago, regarding the volume of the STANDARD HOME LIBRARY we sent you for free examination. As of today, we have not heard from you and I'm on the spot—I need the book badly for other subscribers.

Please—will you do me a personal favor and return the book?

Of course, you can still decide to keep the book even at this late date. If that is your decision, please return the enclosed duplicate invoice with your remittance.

Auditing Department.

## Letter #3

Over a month ago, our Auditing Department advised you about the amount due on your account for the Standard Home Library.

As you have not taken care of the matter, we are again forwarding a statement and would appreciate your prompt action in sending the overdue payment. Please sent (sic) it at once, using the enclosed return envelope.

Collection Department.

## Letter #4

We regret very much that it has become necessary to send you another reminder for payment of the current issue of the Standard Home Library.

You can understand that sending notices such as this, is costly to us as well as annoying to you. You can avoid this by remitting your payment today.

When remitting, be sure to return the invoice enclosed so that your account will be properly credited.

We look forward to receiving your attention and cooperation in this matter.

Collection Department.

## Letter #5

Once again we find it necessary to remind you of the unpaid balance due for your Standard Home Library account.

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We must settle this matter immediately right here and now.

There is no reason for disregarding this notice. If you have a good reason for not paying this bill, let us hear from you so that we can make any necessary adjustment.

In making your remittance, use the enclosed postage-paid envelope. Please also enclose the invoice, to insure that your account is credited properly.

\* \* \* \* \*

Credit Manager.

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

1. The failure of a recipient of respondents' sales promotional material to return the rejection card within the time specified will constitute a request that respondents' book be sent for examination.
2. The prospective purchaser receiving the unordered reference book must either pay for it or return it to respondents.
3. By failing or refusing to return the unordered reference book, the purchase price and postage then become due and owing the respondents even though the prospective purchaser has no desire to keep or use the book.
4. The book is in short supply and great demand.

PAR. 6. In truth and in fact:

1. The failure of the recipient of respondents' sales promotional material to return the rejection card within the time specified cannot constitute a request that respondents' book be sent for examination as respondents have no legal right to unilaterally impose any such obligation on the recipients of their sales promotional material. Respondents' action in sending books to persons who fail to return the rejection cards constitutes the sending of unordered merchandise.
2. The prospective purchaser receiving the unordered reference book is under no obligation to pay for it or return it to respondents.
3. By failing or refusing to return the unordered reference book the purchase price and postage does not become due and owing even though the purchaser has no desire to keep or use the book.
4. The book is not in short supply or great demand.

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

PAR. 7. Respondents' practice of sending books to persons who have not ordered them and attempting to exhort payment for such books or suggesting that the books could be returned in lieu of payment now has, and has had, the capacity and tendency to create the

false and misleading impression that the mailee must pay for the books. The practice now has, and has had, the tendency and capacity insidiously to harass, intimidate and coerce persons into purchasing and paying for books sent by respondents.

Therefore, said practice is unfair and is false, misleading and deceptive.

PAR. 8. The promotional material referred to in Paragraph Four hereof contains numerous statements and representations respecting price and savings. Among and typical but not all inclusive of said statements and representations are the following:

Advertisement A

SEND FOR FREE EXAMINATION  
—AND THEN, IF YOU WISH—  
YOURS AT AMAZING LOW PRICE  
[THE FAMILY PHYSICIAN]

This wonderful book, in its original edition, sold for \$9.00. We intend, when we are ready to sell it generally as part of the Standard Home Library, to price it at \$5.95—a low price indeed, but in line with our usual policy of bringing out valuable books at low prices.

*But for you—as a member of the Special Group—we are granting a still further privilege. For you we are setting an even lower PRE-PUBLICATION PRICE on the book.*

Advertisement B

SENT TO YOU FOR FREE EXAMINATION  
—AND THEN, IF YOU WISH—  
YOURS AT AN AMAZINGLY LOW PRICE

Medical books such as this one ordinarily sell for ten to fifteen dollars. However, because of special arrangements made with the original publishers and with the tremendous savings we are able to make through large printings, we can offer it to you for only \$4.98, plus a few cents mailing costs—an unheard of bargain.

PAR. 9. By and through the use of the aforesaid statements and representations and others of similar import and meaning, but not specifically set out herein, respondents represent, and have represented, directly or by implication:

1. That the amount of \$9 referred to in Advertisement A was the price at which the one volume edition of "The Family Physician" had been sold or offered for sale in good faith by respondents for a reasonably substantial period of time in the recent regular course of their business, prior to said advertisement.

2. That the amounts of "ten to fifteen" dollars referred to in Advertisement B was the range of prices charged by the principal re-

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tail outlets in respondents' trade area for the one volume edition of "The Family Physician."

3. That purchasers of "The Family Physician" save an amount equal to the difference between said higher prices and the corresponding lower prices referred to in the respective advertisements.

PAR. 10. In truth and in fact:

1. The amount of \$9 referred to in Advertisement A was not the price at which the one volume edition of "The Family Physician" had been sold or offered for sale in good faith by respondents for a reasonably substantial period of time in the recent regular course of their business prior to said advertisement.

2. The amounts of ten to fifteen dollars referred to in Advertisement B was not the range of prices charged by the principal retail outlets for the one volume edition of "The Family Physician" in respondents' trade area.

3. Purchasers of "The Family Physician" do not save an amount equal to the difference between said higher prices and the corresponding lower prices referred to in the respective advertisements.

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

PAR. 11. In the course and 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 books and publications of the same general kind and nature as those sold by respondents.

PAR. 12. The use by the 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. Moreover, the use by respondents of the aforesaid acts and practices and particularly the practice of sending unordered reference books and the requests for payment for or return of the books in many instances has the tendency and capacity to cause doubt and confusion in the minds of mailees as to their legal obligations and to coerce them into paying for books sent to them by respondents.

PAR. 13. The aforesaid acts and practices of respondents, as herein

alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

#### DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

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

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

1. Respondent Standard Reference Library, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 53 East 77th Street, New York, New York.

Respondent Frank J. Keller 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.

Standard Reference Works Publishing Company, Inc., was a corporation which was organized, existed and did business under and by virtue of the laws of the State of New York, with its principal

office and place of business located at 53 East 77th Street, New York, New York. This corporation was engaged in the business referred to in the complaint for some time prior to September 9, 1968, when its assets were sold to corporate respondent Standard Reference Library, Inc., and subsequently was dissolved.

Respondents Mac Gache and Frank J. Keller were officers of Standard Reference Works Publishing Company, Inc., when it was actively engaged in business. They formulated, directed and controlled the acts and practices of this corporation and their address is the same as that of the corporate respondent.

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 Standard Reference Library, Inc., a corporation, and its officers, and Frank J. Keller, individually and as an officer of said corporation, and Mac Gache, individually and as former officer of Standard Reference Works Publishing Company, Inc., a corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of books or other 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 the failure of recipients of respondents' sales promotional material to return a rejection card or take any other affirmative action not previously authorized expressly and in writing by the recipients will constitute a request that respondents' merchandise be sent for examination.
2. Misrepresenting, directly or by implication, the legal obligation, if any, that exists between respondents and the mailees to whom respondents send their publications.
3. Suggesting, exhorting, intimidating, coercing or otherwise attempting to compel respondents' mailees to perform or to refrain from performing any act that such mailees are under no legal obligation to perform or forego.
4. Misrepresenting the demand for or the supply or availability of respondents' products.
5. Sending any communication to, or making any demands or

requests of, any person that seeks to obtain payment for or the return of merchandise sent without a prior express written request by the recipient.

6. Representing, directly or by implication, that any price is respondents' former or usual price for said products when such amount is in excess of the price at which such merchandise has been sold or openly and actively offered for sale in good faith by respondents for a reasonably substantial period of time in the recent and regular course of their business and unless respondents' business records which shall be preserved for five years establish that said amount is the price at which such merchandise has been sold or offered for sale in good faith by respondents for a reasonably substantial period of time in the recent, regular course of their business; or misrepresenting, in any manner, the price at which such merchandise has been sold or offered for sale by respondents.

7. Representing, directly or by implication, that any amount is the price charged in respondents' trade area for merchandise unless substantial sales of such merchandise are being made at that or a higher price by principal retail outlets in respondents' trade area and unless respondents have in good faith conducted a market survey or other study which establishes the validity of the trade area prices; or misrepresenting, in any manner, the price at which merchandise is sold in respondents' trade area.

8. Falsely representing that savings are available to purchasers or prospective purchasers of respondents' merchandise; or misrepresenting the savings or the amount of savings available to purchasers or prospective purchasers of respondents' merchandise.

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

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

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

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IN THE MATTER OF

## TALENT RESEARCH BUREAU, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF  
THE FEDERAL TRADE COMMISSION ACT*Docket C-1772. Complaint, July 17, 1970—Decision, July 17, 1970*

Consent order requiring a Chicago, Ill., distributor of photographs and photographic services to cease misrepresenting its capability to promote modeling or acting careers for children.

## 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 Talent Research Bureau, Inc., a corporation, and Henry H. Bloomfield and Irwin M. Bloomfield, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Talent Research Bureau, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Illinois. Talent Research Bureau, Inc., is not now actively engaged in business, but from August 9, 1968, until about July 31, 1969, maintained its office and principal place of business at 2514 North Laramie Avenue, Chicago, Illinois.

Respondents Henry H. Bloomfield and Irwin M. Bloomfield are individuals and officers of the corporate respondent. They formulate, direct, and control the policies, acts, and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their address is 5401 West Chicago Avenue, Chicago, Illinois.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale, and distribution of photographs and photographic services. Respondents have sold their products and services to purchasers thereof located in various States of the United States and now cause, and for some time last past have caused, their products, when sold, to be shipped from their place of business in the State of Illinois to purchasers thereof located in other States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said prod-

ucts and services in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 3. From about August 9, 1968, until about July 31, 1969, when respondent Talent Research Bureau, Inc., was actively engaged in business, respondents offered for sale and sold photographic and other services as part of an employment placement program for children. Under this program, the purchaser, for a \$75 "registration fee," was entitled to one composite photograph of his child and, upon payment of a \$5 "sitting fee" per photograph, a new composite photograph each year for five years thereafter. In addition, the purchaser was entitled to have his child interviewed by a professional "talent scout" who would prepare a resume of the child's qualifications and attempt to place the child in modeling or acting jobs, primarily in the field of commercial advertising.

PAR. 4. In the course and conduct of their business as aforesaid, and for the purpose of inducing the purchase of their products and services, respondents have made, in direct mail advertising and in brochures and other promotional materials, numerous statements and representations of which the following are typical:

T. R. B. [respondent Talent Research Bureau, Inc.] is a research organization seeking children who may show a potential for appearing in print advertising (magazines, newspapers, catalogues) television commercials and fashion shows.

. . . Talent Research Bureau, Inc., a company devoted to discovering exceptionally talented children who they feel possess the qualities necessary for a possible career in modeling, acting and motion picture work.

We have received information indicating that your child may have the necessary qualifications for the commercial advertising media.

If the information is correct, we would be very interested in your child.

Every co-operation will be extended . . . to give your child the exposure necessary to establish a career in the tremendous modeling and advertising field.

Your child's poses and resume, together with Miss Louise Downe's professional grading and remarks will be available to all users of child talent for print advertising, television commercials, modeling and motion pictures, for a period of five years.

You can arrange to have one of our interviewers call at your home to make a preliminary personality analysis of your child.

PAR. 5. By and through the use of the aforesaid statements and representations, and others of similar import and meaning not specifically set forth herein, respondents represented directly or by implication:

That Talent Research Bureau, Inc., is a research organization engaged in promoting the modeling and acting careers of talented children in the field of commercial advertising;

That they receive information relative to the modeling and acting qualifications of particular children and are only interested in talented children;

That, for a period of five years, they circulate and make available to all employers of child talent the photographs, resumes, and professional talent evaluations of children enrolled in their employment placement program; and

That they employ professional talent scouts to call on prospective purchasers of their services in order to evaluate the talent and qualifications of the children of such prospective purchasers.

PAR. 6. In truth and in fact:

Talent Research Bureau, Inc., is not a research organization engaged in promoting the modeling and acting careers of talented children;

Respondents do not receive information relative to the modeling and acting qualifications of particular children and will enroll any child in their employment placement program without regard to such child's talent or qualifications;

Respondents do not circulate and make available to a substantial number of employers of child talent the photographs, resumes, and professional talent evaluations of the children enrolled in their employment placement program; and

Respondents do not employ professional talent scouts to call on prospective purchasers of their services, but employ for this purpose salesmen who have no special qualifications or experience in evaluating the talent and qualifications of the children of such prospective purchasers.

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

PAR. 7. In the course and conduct of their business as aforesaid, and for the purpose of inducing the purchase of their products and services, respondents and their salesmen have made numerous oral statements and representations with respect to the nature and effectiveness of respondents' employment placement program for children. By and through the use of such statements and representations, and others of similar import and meaning not specifically set forth herein, respondents represented directly or by implication:

That children are not enrolled in respondents' employment placement program unless they have the necessary qualifications for prompt placement;

That respondents have no difficulty in placing children enrolled in their program and a substantial number of such children are placed by respondents;

That children will earn back the \$75 registration fee in a short time and will earn \$2,000 the first year as a result of respondents' placement efforts;

That a child featured in a Bayer Aspirin television commercial was employed as a result of respondents' placement efforts; and

That respondents have placed many Negro children in modeling and acting jobs and one hundred such children are needed for placement by respondents.

PAR. 8. In truth and in fact:

Respondents will enroll any child in their employment placement program without regard to such child's talent or qualifications;

Respondents do not place a substantial number of children in modeling and acting jobs and generally are unable to place children in any employment;

Respondents' placement efforts will not enable children to earn back the \$75 registration fee in a short time and will not enable children to earn \$2,000 the first year, but substantially less than these amounts if anything;

Respondents have not placed a child featured in a Bayer Aspirin television commercial and have no connection whatever with Bayer Aspirin; and

Respondents have not placed a substantial number of Negro children in modeling and acting jobs and have no knowledge of employment opportunities for one hundred such children.

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

PAR. 9. In the course and conduct of their business as aforesaid, and at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms, and individuals in the sale of products and services of the same general kind and nature as those sold by respondents.

PAR. 10. 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 mistaken and erroneous belief that said statements and representations were, and are, true and into the purchase of substantial quantities of respondents' products and services by reason of said erroneous and mistaken belief.

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PAR. 11. The aforesaid acts and practices of respondents, as herein alleged, were, and are, all to the prejudice and injury of the public and of respondents' competitors, and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

## DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Industry Guidance 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 the respondents that the law has been violated as alleged in said complaint, and waivers and provisions as required by the Commission's Rules; and

The Commission, having reason to believe that the respondents have violated the Federal Trade Commission Act, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Talent Research Bureau, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Illinois. The corporation is not now actively engaged in business, but from about August 9, 1968, until about July 31, 1969, maintained its office and principal place of business at 2514 North Laramie Ave., Chicago, Illinois.

Respondents Henry H. Bloomfield and Irwin M. Bloomfield are individuals and officers of the corporate respondent. Their business address is 5401 West Chicago Ave., Chicago, Illinois.

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 Talent Research Bureau, Inc., a corporation, and its officers, and Henry H. Bloomfield and Irwin M. Bloomfield, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale, or distribution of photographs and photographic or other services in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the name "Talent Research Bureau," or any name of similar import or meaning, to designate or refer to respondents' business; or otherwise representing in any manner that respondents operate a research organization engaged in promoting the modeling or acting careers of children or adults.

2. Representing, directly or by implication:

(a) That respondents receive information relative to the modeling or acting qualifications of particular children or that respondents' employment placement services are available only to talented children or only to children whose talent and qualifications assure prompt placement in modeling or acting jobs;

(b) That respondents employ, for the purpose of calling on prospective purchasers, professional talent scouts who are qualified to evaluate the modeling or acting qualifications of the children of such prospective purchasers;

(c) That respondents place a substantial number of children in modeling or acting jobs;

(d) That respondents have no difficulty in placing children in modeling or acting jobs or that placement of children in such jobs is in any way assured or guaranteed;

(e) That a model or actor featured in a particular advertisement, commercial, or other appearance has been placed through the efforts of respondents, when such is not the case;

(f) That respondents' employment placement services enable children to earn income or profits in any amount in excess of the amount usually and customarily earned by children enrolled in respondents' employment placement program;

(g) That respondents circulate or make available to a

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substantial number of employers of child talent the photographs, resumes, and professional talent evaluations of children enrolled in respondents' employment placement program.

3. Misrepresenting in any manner the nature or effectiveness of respondents' employment placement services.

*It is further ordered,* That respondents 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 respondents' products or services and shall secure from each such salesman or other person a signed statement acknowledging receipt of a copy of this order.

*It is further ordered,* That respondent corporation 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 this order.

*It is further ordered,* That 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 of their compliance with this order.

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IN THE MATTER OF

PICKFAIR PLACE, LTD., ET AL.

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

*Docket C-1773. Complaint, July 24, 1970—Decision, July 24, 1970*

Consent order requiring a New York City manufacturer and seller of women's apparel to cease misbranding its wool products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Pickfair Place, Ltd., a corporation, and Ben Glustrom, Milton Karol, and Edward Schlossberg, individually

and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Wool Products Labeling Act of 1939, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Pickfair Place, Ltd., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its office and principal place of business located at 250 West 39th Street, New York, New York.

Respondents Ben Glustrom, Milton Karol, and Edward Schlossberg are officers of said corporation. They formulate, direct and control the policies, acts and practices of said corporation, and their address is the same as that of the corporate respondent.

Respondents are engaged in the manufacture and sale of women's apparel. They ship and distribute such products to various customers in the United States.

PAR. 2. Respondents, now and for some time last past, have manufactured for introduction into commerce, introduced into commerce, sold transported, distributed, delivered for shipment, shipped, and offered for sale, in commerce, as "commerce" is defined in said Wool Products Labeling Act of 1939, wool products as "wool product" is defined therein.

PAR. 3. Certain of said wool products were misbranded by the respondents within the intent and meaning of Section 4 (a) (1) of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder in that they were falsely and deceptively stamped, tagged, labeled, or otherwise identified with respect to the character and amount of the constituent fibers contained therein.

Among such misbranded wool products, but not limited thereto, were ladies' coats which were stamped, tagged, labeled or otherwise identified by respondents as containing "100% wool" whereas, in truth and in fact, said wool products contained substantially different fibers and amounts of fiber than as represented.

PAR. 4. Certain of said wool products were further misbranded by respondents in that they were not stamped, tagged, labeled, or otherwise identified as required under the provisions of Section 4(a) (2) of the Wool Products Labeling Act of 1939 and in the manner and form as prescribed by the Rules and Regulations promulgated under said Act.

Among such misbranded wool products, but not limited thereto,

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

PAR. 5. The acts and practices of the respondents as set forth above were, and are, in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, and constituted, and now constitute, unfair methods of competition and unfair and deceptive acts and practices in commerce, within the intent and meaning of the Federal Trade Commission Act.

#### DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Textiles and Furs proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939; and

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

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further 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 Pickfair Place, Ltd., is a corporation organized existing and doing business under and by virtue of the laws of the

State of New York with its office and principal place of business located at 250 West 39th Street, New York, New York.

Respondents Ben Glustrom, Milton Karol, and Edward Schlossberg are officers of said corporation. They formulate, direct and control the acts, practices and policies of said corporation.

Respondents are manufacturers of women's apparel.

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 Pickfair Place, Ltd., a corporation, and its officers, and Ben Glustrom, Milton Karol, and Edward Schlossberg, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment or shipment, in commerce, of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from:

Misbranding such products by:

1. Falsely and deceptively stamping, tagging, labeling, or otherwise identifying such products as to the character or amount of the constituent fibers contained therein.
2. Failing to securely affix to, or place on, each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by Section 4(a)(2) of the Wool Products Labeling Act of 1939.

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

*It is further ordered,* That 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.

Complaint

77 F.T.C.

IN THE MATTER OF

NATIONAL ASSOCIATION OF WOMEN'S AND CHILDREN'S  
APPAREL SALESMEN, INC., ET AL.ORDER, OPINION, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE  
FEDERAL TRADE COMMISSION ACT*Docket 8691. Complaint, July 11, 1966<sup>1</sup>—Decision, July 30, 1970<sup>2</sup>*

Order modifying and supplementing the initial decision, but deferring the entry of a final order until further order of the Commission, against a trade association of organizations and groups of salesmen engaged in the wholesale selling of women's and children's wearing apparel.

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, (15 U.S.C. Sec. 41, *et seq.*) and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the parties hereinafter more particularly named, designated, described, and 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, the Commission hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent National Association of Women's and Children's Apparel Salesmen, Inc., hereinafter referred to as "NAWCAS," is a corporation organized under Pro Forma Decree, Circuit Court, city of St. Louis, Missouri, with its principal office and place of business located at 515 Peachtree Palisades Building, Atlanta, Georgia.

Respondent NAWCAS, a trade association composed of sales persons, organizations and groups of salesmen, was ostensibly organized for the purpose of providing a national association of all organizations or groups composed of salesmen engaged in the wholesale selling of women's and children's wearing apparel or accessories and to cooperate with organizations composed of salesmen in kindred fields whenever practicable and preferably to the end that a strongly organized national voice of salesmen may be achieved. It also provides other services for its members including an edu-

<sup>1</sup> Reported as amended by hearing examiner's order of October 5, 1966, by amending Paragraph Three and Paragraph Five.

<sup>2</sup> Final order to cease and desist issued February 25, 1971, 78 F.T.C. 446.

cational program, a clearing house for the interchange of information and employment, and attempts to foster a cordial relationship between manufacturers, retailers, and salesmen.

Affiliate members of NAWCAS include organizations or groups of salesmen whose members are principally engaged in the sale at wholesale of women's and children's apparel or accessories. Effective January 1, 1961, all organizations or groups affiliated with NAWCAS were required to have all of their members become members of NAWCAS. Sales persons who otherwise qualify but do not belong to any organization affiliated with NAWCAS are eligible for membership as "individual regional members."

Respondent NAWCAS has approximately 12,500 members, which constitute a substantial number of the salesmen selling women's and children's apparel or related accessories, hereinafter referred to as merchandise. It is estimated that approximately \$3,000,000,000 worth of merchandise is bought annually through NAWCAS member salesmen and approximately \$1,000,000,000 of this merchandise is bought annually through the various NAWCAS affiliate markets representing more than 294 trade shows throughout the United States.

The membership of respondent NAWCAS constitutes a class so numerous and changing as to make it impracticable to specifically name and describe each and all of such members as parties respondent herein. The following, among others, are members of respondent NAWCAS, are fairly representative of the whole membership and have been responsible in part, for the direction and control of said respondent. They are named as respondents herein in their individual capacities, as members of respondent NAWCAS, and as representative of all members of respondent NAWCAS, including affiliate members and individual regional members as a class, including those not herein specifically named, all of whom are made respondents herein:

Robert Leipzig, 111 Meadowview Avenue, Hewlet, Long Island, New York. Respondent Leipzig served as president for the year 1963; and

William H. Miller, 3800 Dogwood Drive, Greensboro, North Carolina. Respondent Miller served as secretary for the year 1963.

Marshall J. Mantler, 515 Peachtree Palisades Building, Atlanta, Georgia, is named because he has served as executive director of respondent NAWCAS for the years, among others, from 1948 to the present and has participated in the various acts and practices which are alleged to be illegal in this complaint.

PAR. 2. Respondent Style Exhibitors, Inc., hereinafter referred to as "Exhibitors," is a corporation organized under the laws of Illinois, with its principal office and place of business located at Pick-Congress Hotel, 520 South Michigan Avenue, Chicago 5, Illinois.

Respondent Exhibitors is an association affiliated with NAWCAS and its membership is composed of NAWCAS members who are traveling salesmen.

Respondent Exhibitors is ostensibly organized to conduct and supervise the exhibition and sale of women's and children's wearing apparel or accessories at wholesale by and for the benefit of its members and to foster such other activities as will promote the exhibition and sale of the aforesaid merchandise. To this end, Exhibitors has four "trade shows" or markets each year at which the merchandise of its members is exhibited or displayed and offered for sale, distributed and sold to retailers and buyers representing retailers. It is composed of a membership of two classes:

(a) Full members having the right and privilege of acquiring such room and space for display purposes that may be assigned to him or her by the Board of Distributors. Not more than one salesman from any one firm, using the same firm name, shall be eligible for full membership.

(b) Associate members having the same rights and duties as a full member, except that he or she may show and sell only those lines represented by the senior member (full member) with whom he or she is associated.

Respondent Exhibitors represents one of the largest wholesale markets for the promotion, offering for sale, distribution and sale of women's and children's apparel or accessories and has approximately 900 members who represent between 800 and 1,000 manufacturers of women's and children's apparel or accessories.

The number of affiliate members of NAWCAS constitutes a class so numerous as to make it impracticable to specifically name and describe each and all of said affiliates. Style Exhibitors, Inc., is fairly representative of said affiliate members and has participated in various acts and practices hereinafter set forth. It is named as a respondent herein in its individual capacity, as an affiliate member of NAWCAS, and as representative of all affiliate members of NAWCAS.

PAR. 3. The respondents have been and are engaged in acts and practices in connection with sponsoring, conducting and holding trade shows at which members representing manufacturers of women's and

children's apparel or accessories display their respective merchandise for which orders are solicited from buyers representing department stores, ladies' specialty shops, children's specialty shops and other stores where women's and children's apparel or accessories are sold at retail, throughout the United States. In addition to displaying women's and children's apparel or accessories and soliciting orders therefor at the aforesaid trade shows, the members of respondent associations also solicit orders for women's and children's apparel or accessories throughout the United States. All orders taken by members of the respondents, whether at the aforesaid trade shows or not, are forwarded to the manufacturers located in the various States of the United States where the women's and children's apparel or accessories are made or warehoused, and thereafter the manufacturers ship said merchandise or cause them to be shipped across State lines to the purchasers thereof, located in the various States of the United States.

Therefore, the respondents, and the members thereof, have carried on and are now carrying on, a constant course of trade in commerce in the aforesaid merchandise between and among the various States of the United States and in the District of Columbia.

Respondents NAWCAS, Exhibitors and the members thereof, have committed and performed, and are committing and performing, in commerce, the alleged illegal acts, practices and policies hereinafter set forth. All of the respondents named herein have been, and are now engaged in commerce in women's and children's apparel or accessories, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Except to the extent that competition has been hindered, frustrated, lessened and eliminated by the acts and practices alleged in this complaint, respondents have been in substantial competition with each other in that individual members and affiliates compete, and respondents have been in substantial competition with other corporations, firms, partnerships and individuals engaged in the sale and distribution of women's and children's apparel or accessories in "commerce" as that term is defined in the Federal Trade Commission Act.

PAR. 5. Respondents constitute a large, important and influential segment of the industry engaged in the manufacture, distribution and sale of women's and children's apparel or accessories. It is important for a manufacturer to be represented at the said trade shows, and for a salesman who represents manufacturers of women's and children's apparel or accessories to participate in the displaying and offering

for sale of said merchandise at the trade shows because numerous buyers representing department stores, ladies' specialty shops, children's specialty shops and other stores located throughout the United States are in attendance.

PAR. 6. Beginning in 1955, the said respondents hereinbefore named and described, and each of them, for a number of years last past and continuing to the present time, have by means of agreements and understandings, combined and conspired and have united in and pursued a planned common course of action to adopt, place in effect and carry out, and have adopted, placed in effect and carried out, by various means and methods, a plan, scheme or policy, between and among themselves and others not named herein, to hinder, frustrate, restrain, suppress and eliminate competition in the offering for sale, distribution and sale of women's and children's apparel or accessories in the course of the aforesaid commerce.

Pursuant to, and in furtherance and effectuation of, the aforesaid agreements and planned common course of action, respondents have done and performed and are doing and performing the following acts and practices:

(1) They have adopted and have pursued a policy of refusing and threatening to refuse to promote or display or offer to sell, distribute or sell women's and children's apparel or accessories of any manufacturer who does not comply with terms and conditions established by respondents concerning the relationship between members and manufacturers, *e.g.*, the "Southwest Resolution" adopted at the 1957 Annual Convention.

(2) They have adopted, pursued and carried out a policy of inducing and coercing manufacturers of women's and children's apparel or accessories to comply with terms and conditions established by respondents.

(3) They have adopted and have pursued a policy of printing and disseminating to members, by various means, the names of "uncooperative" manufacturers, who are prevented from using the market facilities of any affiliate for the purpose of promoting or selling their women's and children's apparel or accessories.

(4) They have adopted, pursued and carried out a policy of requiring each new member and all members acquiring or attempting to acquire any new line of merchandise to enter into a written contract with the manufacturers thereof as a condition for the exhibition, offering for sale, distribution or sale by the salesman of said merchandise at any trade show or market of any NAWCAS affiliate. Said contract must contain provisions exactly or substantially similar

to those contained in the NAWCAS "standard contract" adopted at the 1960 Annual Convention and as later amended.

(5) They have adopted and pursued a policy of restricting and preventing individual members from withdrawing from one affiliate for the purpose of joining another affiliate. Similarly, members who have been expelled from any NAWCAS affiliate are restricted or prevented from joining another.

(6) They have adopted and pursued a policy of requiring affiliate (where more than one affiliate exists in the same geographical market) to agree upon trade show dates, so that they do not compete with each other.

(7) They have adopted, pursued and are carrying out a policy of restricting and preventing any member from contacting, either directly or indirectly, the manufacturer represented by any other member of respondent Exhibitors in an effort to acquire the line of merchandise of that member without the consent of that member.

(8) They have adopted and have pursued a policy of limiting, restricting or preventing the exercise of the right of members to exhibit merchandise at any show or market at any time and at any place they so desire.

(9) They have adopted and pursued a policy of restricting or limiting the number of lines of merchandise that any associate member may exhibit.

(10) They have adopted and pursued a policy of refusing to accept for admissions as members persons otherwise eligible and qualified for membership therein.

PAR. 7. The acts, practices, and methods of competition engaged in, followed, pursued or adopted by respondents, and the combination, conspiracy, agreement or common understanding entered into or reached between and among the respondents or others not parties hereto, and the acts and practices and methods, as hereinabove alleged, are all singularly unfair and to the prejudice of the public policy because of their dangerous tendency unduly to prevent women's and children's apparel or accessory salesmen and manufacturers from competing in the sale of this merchandise, to limit and restrict channels of distribution of this merchandise, to hinder competition, and to restrain and monopolize trade and commerce, and thereby constitute unfair methods of competition and unfair acts and practices in commerce within the meaning of Section 5 of the Federal Trade Commission Act, as amended.

*Mr. Anthony Zabiegalski, Mr. Joseph Rutberg, and Mr. Joseph Brownman supporting the complaint.*

