

Order

IN THE MATTER OF
THE BENDIX CORPORATION, ET AL.*Docket 8739. Interlocutory Order, March 29, 1973.*

Order reversing action of the administrative law judge authorizing a subpoena to the Commission's Secretary, and quashing said subpoena.

ORDER REVERSING ACTION OF ADMINISTRATIVE LAW
JUDGE AUTHORIZING SUBPOENA TO COMMISSION SECRETARY

This matter is before the Commission pursuant to Section 3.23 (a) of the Commission's Rules of Practice to review the order of the administrative law judge dated February 15, 1973, which granted respondents' application for a subpoena directing Charles A. Tobin, Commission's Secretary, to produce a "staff memorandum * * * asking for permission to conduct or recommending the 'investigation into the Acts and Practices of Companies Manufacturing Automotive Parts, Accessories and Equipment.'"

In March 9, 1973, upon its own motion, the Commission placed this matter on its docket for review.

As a result of such review, the Commission has determined the document in question is an intra-agency memorandum reflecting the mental processes of the agency in considering the initiation of the investigation and, hence, not appropriate for discovery; therefore

It is ordered, That the administrative law judge's order of February 15, 1973, be, and hereby is, reversed and the subpoena issued pursuant thereto is hereby quashed.

IN THE MATTER OF
HORIZON INDUSTRIES, INC., ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED
VIOLATION OF THE FEDERAL TRADE COMMISSION AND THE
FLAMMABLE FABRICS ACTS*Docket C-2371. Complaint, Mar. 29, 1973—Decision Mar. 29, 1973.*

Consent order requiring a Dalton, Georgia, manufacturer and seller of carpets and rugs, among other things to cease manufacturing for sale, selling, importing, or distributing any product, fabric, or related mate-

Complaint

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rial which fails to conform to an applicable standard of flammability or regulation issued under the provisions of the Flammable Fabrics Act, as amended.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Horizon Industries, Inc., a corporation formerly trading as Tile Company of America, Inc., and Peter Spirer, individually and as an officer of the said corporation, hereinafter referred to as respondents, have violated the provisions of the said Acts and the rules and regulations promulgated under the Flammable Fabrics Act, as amended, 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 Horizon Industries, Inc., a corporation formerly trading as Tile Company of America, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia. Respondent Peter Spirer is an officer of the said corporate respondent. He formulates, directs, and controls the acts, practices, and policies of the said corporation.

Respondents are engaged in the manufacture and sale of carpets and carpet tiles, with their principal place of business located at Interstate 75 and Connector #3, Dalton, Georgia.

PAR. 2. Respondents are now and for some time last past have been engaged in the manufacturing for sale, sale and offering for sale, in commerce, and have introduced, delivered for introduction, transported and caused to be transported in commerce, and have sold or delivered after sale or shipment in commerce, products, as the terms "commerce" and "product," are defined in the Flammable Fabrics Act, as amended, which products fail to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the Flammable Fabrics Act, as amended.

Among such products mentioned hereinabove were carpets and carpet tiles, styles "Tritones" (and "Fancy That") (manufactured between April 16 and July 2, 1971); "Tempo;" "Aqua-

ius;" and "Melody" (the latter style in dye lot numbers 1003, 1004 and 1055), all subject to Department of Commerce Standard for the Surface Flammability of Carpets and Rugs (DOC FF 1-70).

PAR. 3. The aforesaid acts and practices of respondents were and are in violation of the Flammable Fabrics Act, as amended, and the rules and regulations promulgated thereunder, and as such constituted, and now constitute unfair methods of competition and unfair 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 Consumer Protection 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 Flammable Fabrics Act, as amended; and

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

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

1. Respondent Horizon Industries, Inc., a corporation formerly trading as Tile Company of America, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia. Respondent Peter Spierer is an officer of the corporation. He formulates, directs, and controls the acts, practices and policies of the said corporation.

Respondent corporation is engaged in the manufacture and sale of carpets and rugs. Its office and principal place of business is located at Interstate 75 and Connector #3, Dalton, Georgia.

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 Horizon Industries, Inc., a corporation formerly trading as Tile Company of America, Inc., its successors and assigns, and its officers, and respondent Peter Spierer, individually and as an officer of said corporation and respondents' agents, representatives and employees directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from manufacturing for sale, selling offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric, or related material; or manufacturing for sale, selling, or offering for sale, any product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric" and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the products which gave rise to this complaint, of the flammable nature of said products and effect the recall of said products from such customers.

It is further ordered, That the respondents herein either process the products which gave rise to the complaint so as to bring

them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That the provisions of this order with respect to customer notification, recall and processing or destruction shall be applicable to the products designated in subparagraph one of Paragraph Two of the complaint giving rise to this order, and any other lots of Style Melody determined to be in violation of the Flammable Fabrics Act, as amended, prior to the date of acceptance, by the Commission of the final compliance report.

It is further ordered, That respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the identity of the purchasers of said products, (3) the amount of said products on hand and in the channels of commerce, (4) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof, (5) any disposition of said products since July 16, 1971, and (6) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or to destroy said products, and the results of such action. Respondents will submit with their report, a complete description of each style of carpet or carpet tile currently in inventory or production. Upon request, respondents will forward to the Commission for testing a sample of any such carpet or carpet tile.

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.

Decision and Order

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business or employment in which he is engaged as well as a description of his duties and responsibilities.

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.

Complaint

IN THE MATTER OF

BEN STROLL FURS, INC., ET AL.

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

Docket C-2371. Complaint, April 2, 1973—Decision, April 2, 1973.

Consent order requiring a New York City manufacturer of fur products, among other things to cease misbranding, falsely invoicing and guaranteeing furs, and to make refunds to consumers who purchased misbranded or deceptively invoiced furs.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Ben Stroll Furs, Inc., a corporation, and Ben Stroll, a/k/a Benjamin Strulowitz, 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 Fur Products Labeling 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 Ben Stroll Furs, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

Respondent Ben Stroll, a/k/a Benjamin Strulowitz is an officer of the corporate respondent. He formulates, directs and controls the policies, acts and practices of the corporate respondent including those hereinafter set forth.

Respondents are manufacturers of fur products with their office and principal place of business located at 333 Seventh Avenue, New York, New York.

PAR. 2. Respondents are now and for some time last past have been engaged in the introduction into commerce, and in the manufacture for introduction into commerce, and in the sale, advertising, and offering for sale in commerce, and in the transportation and distribution in commerce, of fur products; and

have manufactured for sale, sold, advertised, offered for sale, transported and distributed fur products which have been made in whole or in part of furs which have been shipped and received in commerce, as the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act.

PAR. 3. Certain of said fur products were misbranded in that they were falsely and deceptively labeled to show that fur contained therein was natural, when in fact such fur was pointed, bleached, dyed, tip-dyed, or otherwise artificially colored, in violation of Section 4(1) of the Fur Products Labeling Act.

PAR. 4. Certain of said fur products were misbranded in that they were not labeled as required under the provisions of Section 4(2) of the Fur Products Labeling Act and in the manner and form prescribed by the rules and regulations promulgated thereunder.

Among such misbranded fur products, but not limited thereto, were fur products with labels which failed to disclose that the fur contained in the fur products was bleached, dyed, or otherwise artificially colored, when such was the fact.

PAR. 5. Certain of said fur products were falsely and deceptively invoiced by the respondents in that they were not invoiced as required by Section 5(b)(1) of the Fur Products Labeling Act and the rules and regulations promulgated under such Act.

Among such falsely and deceptively invoiced fur products, but not limited thereto, were fur products covered by invoices which failed to disclose that the fur contained in the fur products was bleached, dyed, or otherwise artificially colored when such was the fact.

PAR. 6. Certain of said fur products were falsely and deceptively invoiced in that said fur products were invoiced to show that the fur contained therein was natural, when in fact such fur was pointed, dyed, tip-dyed or otherwise artificially colored, in violation of Section 5(b) (2) of the Fur Products Labeling Act.

PAR. 7. Respondents furnished false guaranties under Section 10(b) of the Fur Products Labeling Act with respect to certain of their fur products by falsely representing in writing that respondents had a continuing guaranty on file with the Federal Trade Commission when respondents in furnishing such guaranties had reason to believe that the fur products so falsely guaranteed would be introduced, sold, transported and distributed in commerce, in violation of Rule 48(c) of said rules and regulations under the Fur Products Labeling Act and Section 10(b) of said Act.

PAR. 8. The aforesaid acts and practices of respondents, as

herein alleged, are in violation of the Fur Products Labeling Act and the rules and regulations promulgated thereunder and constitute unfair methods of competition and unfair and deceptive acts and practices in commerce under the Federal Trade Commission Act.

PAR. 9. Respondents are now and for some time last past have been engaged in the manufacture for sale, sale and distribution of fur products. The aforesaid products are shipped or delivered from respondents' place of business in the State of New York to respondents' customers located in various other States of the United States. Respondents maintain, and have maintained a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 10. Respondents in the course and conduct of their business as aforesaid have sold and distributed in commerce fur products which were misbranded and falsely and deceptively invoiced as alleged in Paragraph Three through Seven hereinbefore. Respondents, through the aforesaid false and deceptive labels and invoices, obtained substantially higher prices for fur products than they would have obtained had the fur products been accurately labeled and invoiced in accordance with the Fur Products Labeling Act and the rules and regulations promulgated thereunder.

The retention by respondents of the monies they received in the form of higher prices for the misbranded and deceptively invoiced fur products is a continuing deception and constitutes a deceptive act or practice and an unfair method of competition in commerce in violation of Section 5 of the Federal Trade Commission Act.

PAR. 11. The aforesaid acts and practices of respondents as herein alleged were and are to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce and an unfair method of competition 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 New York Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act and the Fur Products Labeling Act; and

The respondents and counsel for the Commission having there-

after 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 has 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 Section 2.34(b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Ben Stroll Furs, Inc., 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 333 Seventh Avenue, city of New York, State of New York.

The respondent Ben Stroll, a/k/a Benjamin Strulowitz is an officer 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 Ben Stroll Furs, Inc., a corporation, its successors and assigns, and its officers, and Ben Stroll, a/k/a Benjamin Strulowitz, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division, or other devise, in connection with the introduction, or manufacture for introduction, into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation or distribution, of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as the terms "commerce," "fur" and "fur

product” are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding any fur product by:

1. Representing directly or by implication on a label that the fur contained in such fur product is natural when such fur is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

2. Failing to affix a label to such fur product showing in words and in figures plainly legible all of the information required to be disclosed by each of the subsections of Section 4(2) of the Fur Products Labeling Act.

B. Falsely and deceptively invoicing any fur product by:

1. Failing to furnish an invoice, as the term “invoice” is defined in the Fur Products Labeling Act, showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of Section 5(b) (1) of the Fur Products Labeling Act.

2. Representing directly or by implication on an invoice that the fur contained in such fur product is natural when such fur is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

It is further ordered, That respondents Ben Stroll Furs, Inc., a corporation, its successors and assigns, and its officers and Ben Stroll, a/k/a Benjamin Strulowitz, individually and as an officer of said corporation, and respondents’ representatives, agents and employees, directly or through any corporation, subsidiary, division or other device, do forthwith cease and desist from furnishing a false guaranty that any fur product is not misbranded, falsely invoiced or falsely advertised when the respondents have reason to believe that such fur product may be introduced, sold, transported, or distributed in commerce.

It is further ordered, That respondents notify, by delivery of a copy of this order by registered mail, each of their customers listed in Schedule A, attached hereto, all of whom have purchased fur products which gave rise to this complaint, of the fact that such products were misbranded or falsely or deceptively invoiced.

It is further ordered, That respondents shall forthwith deposit in escrow with their attorney, as escrowee, Four Thousand Five Hundred and Eighty 00/100 (\$4,580.00) Dollars, which amount represents the difference between the sum actually received by the respondents in sales to their customers of 43 fur products identified by item number in Schedule A, attached hereto, which were misbranded or falsely or deceptively invoiced

as natural and the sum the respondents would have received for the same products had they been properly labeled and invoiced as dyed.

It is further ordered, That respondents make every prompt and diligent effort to ascertain the identity and the present address of, and the individual retail prices paid by each consumer who purchased the said 43 fur products manufactured by the respondents and identified by item number in Schedule A, attached hereto; and the respondents at the time and as part of the initial report of compliance which they shall file with the Commission within 60 days after service upon them of this order, as hereinafter set forth, shall include as part of that report a detailed account of the efforts made by them in obtaining the above information together with the results thereof.

It is further ordered, That following the respondents' initial report of compliance and its acceptance by the Commission, each consumer located by the respondents or by the Commission who has purchased any of the subject 43 fur products shall be sent by the respondents by registered mail a copy of this order and shall be paid a sum from the escrow amount arrived at as follows:

(1) Each of the consumers who have purchased any of the subject 43 fur products shall receive a percentage of the \$4,580.00 escrow. The percentage received by each shall be determined by ascertaining the total of the retail prices paid by the consumers for the 43 fur products and then determining the percentage that the individual consumer's retail price bears to the total of the retail prices.

(2) In the event that some of the consumers can not be located there shall be no reduction in the escrow amount of \$4,580.00, but rather the amount received by each consumer shall be calculated as described above except that the total of the retail prices used to ascertain the percentage of the escrow amount to be paid to the individual consumer shall be the total of the retail prices paid by the consumers who have been located for the respective fur products that they purchased.

(3) In no event shall any consumer receive more than 20 percent of the retail price originally paid by him, however, such payment shall not limit the consumer's rights or interests.

(4) Any amount remaining in the escrow account following full compliance by the respondents with this order

may be returned to them by the escrowee subject to the approval of the Commission.

It is further ordered, That in addition to the provisions hereinabove made regarding payment by the respondents to consumers who purchased the 43 misbranded or falsely and deceptively invoiced fur product, the respondents shall pay, to any other consumer who shows that prior to the effective date of this order he purchased a fur product manufactured and deceptively invoiced and/or misbranded by the proposed respondents, an amount equal to 20 percent of the wholesale price received by the respondents in the sale of the misbranded or falsely or deceptively invoiced fur product but in no event shall any payment made to a consumer under the provisions of this paragraph foreclose any of the consumer's rights or interests, nor shall any payment by the respondents provided for under this paragraph be made by them from the hereinabove described escrow fund of \$4,580.00.

It is further ordered, That in addition to the respondents sending a copy of this order to consumers who had purchased the 43 fur products as described hereinbefore, the respondents shall also send a copy of this order by registered mail to any other consumer known by them or who may become known by them to have purchased a fur product manufactured and misbranded or falsely or deceptively invoiced by the respondents prior to the effective date of this order.

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 effect compliance obligations arising out of the order.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business and address, the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

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 the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission an initial report of compliance in

writing setting forth in detail the manner and form in which they have complied with this order.

It is further ordered, That the respondents within sixty (60) days of their filing of the initial report of compliance and acceptance of the same by the Commission shall file with the Commission an additional report in writing setting forth in detail the manner and form in which they have complied with this order.

SCHEDULE A

<u>Stroll Inv. #</u>	<u>Date</u>	<u>Customer</u>	<u>Style/Item No.</u>
4191	7/11/68	Lockwood Furs	197/6331
"	"	" "	180/6327
4529	8/13/68	Lloyds	197/6682
"	"	"	101/4256
4607	8/20/68	I. E. Goodman	190/6708
"	"	" "	190/6340
4552	8/13/68	" "	199/6336
4476	8/5/68	Northern Furs	675/6649
"	"	" "	101/4273
5091	10/9/68	Evans Fur Co.	917F/6430
"	"	" " "	291F/6680
4793	9/6/68	" " "	199/6437
4711	8/29/68	" " "	968-8/6425
4694	8/28/68	" " "	917F/6428
"	"	" " "	981F/6429
"	"	" " "	953/6653
4360	7/25/68	" " "	585/6445
4264	7/17/68	" " "	875/6435

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<u>Stroll Inv. #</u>	<u>Date</u>	<u>Customer</u>	<u>Style/Item No.</u>
4257	"	" " "	875/6320
4244	7/16/68	" " "	875/6313
4414	7/31/68	Gold Label	195/6344
5149	10/14/68	H. D. Grossman	291F/6317
4627	8/21/68	Ben Herschaft	194/4259
"	"	" "	195/6668
4174	7/10/68	Robert Schechner	199/6348
9300	1/22/70	Giba-Friedman	635/5805
"	"	" "	915/5808
3357	12/30/70	Giba-Noblia, Inc.	817/1700
3494	1/15/71	A. I. Lipsey	9408/1703
3538	1/20/71	" "	9408/1701
6863	10/28/68	Lockwood Furs	197/6331
6857	10/18/68	" "	180/6327
9165	12/12/69	Mohl Fur Co.	875/5215
"	"	" " "	675/5222
"	"	" " "	675/5229
9010	12/1/69	" " "	824/4097
9056	12/3/69	Goldin-Feldman	525/5224
8974	11/25/69	Harfred	875/5228
9141	12/10/69	Evans Fur Co.	8225/4107
3494	1/15/71	A. I. Lipsey	9408/1703
3538	1/20/71	" "	9408/1701
9051	12/3/69	Pageant Furs	817/4288
8916	11/18/69	Goldin-Feldman	817/4279

IN THE MATTER OF
WESTERN STORECASTING, LIMITED, ET AL.

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

Docket C-2373. Complaint, April 2, 1973—Decision, April 2, 1973.

Consent order requiring a Canadian corporation in Vancouver, British Columbia, operating in-store broadcasting promotional plans, among other things to cease knowingly inducing and receiving discriminatory promotional allowances from suppliers, and participating in advertising arrangements resulting in unlawful discrimination among American retailer.

COMPLAINT

The Federal Trade Commission, pursuant to the provisions of the Federal Trade Commission Act (15 U.S.C. Section 45), by virtue of the authority vested in it by said Act, having reason to believe that the parties named in the caption hereof and hereinafter more particularly described and referred to as respondents, have violated the provisions of Section 5 of the Federal Trade Commission Act, as hereinafter more particularly described, 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 respect thereto as follows:

PARAGRAPH 1. Respondent Western Storecasting, Limited, is a corporation organized, existing and doing business under and by virtue of the laws of the Province of British Columbia, Canada, with its principal office located at 515-850 West Hastings Street, Vancouver, British Columbia, Canada. Respondent Western Storecasting, Limited, is known as and referred to herein as "Western."

Respondent William R. Schieman is an individual and an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent including the acts and practices hereinafter set forth. His address is 1371 West 71st, Vancouver, British Columbia, Canada, and he is a citizen of the United States of America.

PAR. 2. Respondents, in connection with their business, have solicited, entered into and executed contracts and agreements with suppliers, located in the United States of America, which provide for Western to supply the following services and facilities

in connection with the sale and offering for sale of participating suppliers' products in certain IGA retail grocery stores located in western Washington, United States of America:

1. Arranging and providing for in-store sound broadcasts by prerecorded tapes of background music interspersed with commercial messages featuring the products of participating suppliers.

2. Advertising suppliers' products in the order and merchandising book of the participating retail grocery stores.

Said contracts and agreements provide that participating suppliers pay Western for the aforementioned services and facilities furnished by Western, through Western and to the participating IGA retail grocery stores.

PAR. 3. In the course and conduct of its aforementioned business during 1970 and 1971, Western solicited, entered into, and executed an agreement with the American Wholesale Grocery Company, a division of the Utah Wholesale Grocery Company, a Utah corporation, hereinafter referred to as "American."

Said agreement required Western to provide the following services and facilities in the IGA retail grocery stores who purchased from American and participated in the Western program:

1. Installation of tape decks and prerecorded tapes.

2. Arranging and providing for in-store sound broadcasts by prerecorded tapes of background music interspersed with commercial messages featuring the products of participating suppliers who sell through American.

In connection with this agreement, American furnished personnel and facilities to respondents for soliciting suppliers to enter the Western program in connection with the sale and offering for sale of the suppliers' products in western Washington, United States of America.

PAR. 4. In the course and conduct of their business, respondents executed contracts with certain IGA retail grocery stores. These contracts provided, in part, for said stores to purchase and promote all products and services advertised by all the suppliers participating in the in-store broadcasts.

PAR. 5. In the course and conduct of their business, respondents have engaged and are now engaged in commerce, as "commerce" is defined in the Federal Trade Commission Act. Respondents send or cause to be sent, equipment, advertising materials, payments, communications, contracts, invoices and other items to and from their home offices in the Province of British Columbia, Canada, to and from the State of Washington in which the participating retail grocery stores are located.

In addition, many of the products sold and promoted in the retail grocery stores participating in the program have been transported from many States of the United States, in which said products were manufactured, prepared, or warehoused, to the State of Washington where said participating retail grocery stores are located.

PAR. 6. In the course and conduct of its business in commerce, and within the United States of America during 1970 and 1971, respondent Western has been the principal instrumentality and factor in negotiating and executing promotional and advertising arrangements between participating suppliers, American, and the participating retail grocery stores, wherein:

a. Participating suppliers have paid or contracted for the payment of something of value to respondent Western for the benefit of customers of such participating suppliers as compensation or in consideration for services and facilities furnished by or through said customers in connection with the sale or offering for sale of such participating suppliers' products, and wherein

b. Participating suppliers have contracted to furnish, contributed to the furnishing, and have furnished, through respondent Western, services and facilities connected with the sale or offering for sale of such participating suppliers' products to some of their retail grocery customers when respondents knew or should have known that the said payments for, or the said furnishing of, services and facilities were discriminatory in that neither respondents nor the participating suppliers offered and otherwise made available or accorded such payments for, or the furnishing of, services and facilities to all of said participating suppliers' customers, including those who do not purchase directly, competing with those so favored.

PAR. 7. By conceiving, authorizing and initiating the contracts with the participating retail grocery stores and with the participating suppliers, with the cooperation and assistance of American, as aforesaid, respondents controlled and determined the terms, conditions, rates, amounts, times, territories, and promotional arrangements between participating suppliers and their participating retail grocery customers.

Respondents knew or should have known that many of the participating suppliers did not offer or otherwise make available on proportionally equal terms the benefits of the payments, services and facilities of the Western program to all of their other retail customers, including those who did not purchase directly, competing with the favored participating retail grocery customers in the sale and distribution of such suppliers' products.

Respondents also failed to offer and otherwise make available on proportionally equal terms the Western program to all of the participating suppliers' other retail customers, including those who do not purchase directly, who, in fact, compete with the favored retail grocery customers.

As a result, respondents knew or should have known that the benefits of the payments, services and facilities of the Western program were not offered, accorded and otherwise made available to all of said participating suppliers' retail customers, including those who do not purchase directly, competing in the distribution of said participating suppliers' products.

PAR. 8. The acts and practices of respondents, as herein alleged, are all to the prejudice of the public and constitute unfair methods of competition in commerce and unfair acts and practices in commerce within the intent and meaning and 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 Seattle Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violations of Section 5 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 Section 2.34(b) of its rules, the Commission hereby issues its complaint,

makes the following jurisdictional findings, and enters the following order:

1. Respondent Western Storecasting, Limited, is a corporation organized, existing and doing business under and by virtue of the laws of the Province of British Columbia, Canada, with its principal office located at 515-850 West Hastings Street, Vancouver, British Columbia, Canada.

Respondent William R. Schieman, is an individual and an officer of the corporate respondent. He formulates, directs and controls the policies, acts and practices of said corporation. His address is the same as that of corporate respondent. Respondent William R. Schieman is a citizen of the United States of America.

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

ORDER

It is ordered, That respondents Western Storecasting, Limited, a corporation, its successors and assigns, and its officers, and William R. Schieman, individually and as an officer, and respondents' agents, representatives and employees, in connection with their business in commerce, as "commerce" is defined in the Federal Trade Commission Act, when doing business within the United States of America, do forthwith cease and desist from:

1. Inducing and receiving, receiving or contracting for the receipt of anything of value from any supplier for the benefit of such supplier's customer, for the purpose of compensating said supplier's customer for display and promotional services or facilities furnished by or through said supplier's customers, or for the purpose of furnishing display or promotional services and facilities, including background music and promotional announcements to said supplier's customers, in connection with the processing, handling, sale or offering for sale of such supplier's products by such customer, when respondents know or should know that such compensation, consideration, services, or facilities are not affirmatively offered, accorded, and otherwise made available by such supplier or respondents on proportionally equal terms to all the supplier's retail customers, including those who do not purchase directly from such supplier and who compete with the favored retail customers in the sale and distribution of such supplier's products.

2. Paying or contracting for the payment of anything

of value to or for the benefit of any retail customer of a supplier, or arranging for a supplier to pay anything of value to its retail customers, as compensation or in consideration for any services or facilities furnished by or through such retail customer, or furnishing, contracting to furnish, or contributing to the furnishing of any service or facility, including background music and promotional announcements, to any retail customer of such supplier, in connection with the processing, handling, sale or offering for sale of any of such supplier's products, unless such payment, compensation, consideration, services or facilities are affirmatively offered, accorded, and otherwise made available to all of such supplier's retail customers, including those who do not purchase directly from such supplier and who compete with the favored retail customers in the sale and distribution of such supplier's products.

3. Acting as an intermediary in transactions between suppliers and their retail customers as described in the complaint unless respondents affirmatively inform all such suppliers of such supplier's primary responsibility for seeing that the allowances they grant, or the services or facilities they furnish directly or indirectly in connection with the promotion of their products, to or for the benefit of some of their customers, are made available to all other customers, including those buying indirectly, who compete with the favored retail customers.

4. Requiring that a retail customer purchase or promote products of other participating suppliers, or all of the products of any one participating supplier, or all the products of all participating suppliers as a precondition for the direct or indirect receipt of promotional allowances and services from any participating supplier.

It is further ordered, That respondents shall not organize, sponsor, or initiate any in-store promotional program in the United States of America except under the following terms and conditions:

1. A copy of this order shall be delivered to each supplier who is invited to participate or who initiates any in-store promotional program before any contract or agreement, whether written or oral, is entered into.

2. A copy of this order shall be delivered to any person or organization other than a supplier or retail store who participates in, organizes or sponsors the respondents' program.

3. Respondents will not perform the obligations required of any supplier as expressed in the "Guides for Advertising Allowances and Other Merchandising Payments and Services," promulgated by the Federal Trade Commission on May 29, 1969, or as subsequently amended or revised, unless the supplier is furnished with written procedures detailing respondents' duties and methods in assisting the supplier to comply with said guides, and respondents obtain a written receipt from the supplier acknowledging receipt of said procedures.

It is further ordered, That the respondents herein shall sixty (60) days before engaging in any promotional program within the United States file with the Commission a report in writing setting forth in detail the manner and form in which they will comply with this order.

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

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 involves a corporation doing business in the United States of America, and 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.

IN THE MATTER OF
TAYLOR MOBILE HOMES, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED
VIOLATION OF THE FEDERAL TRADE COMMISSION AND
THE TRUTH IN LENDING ACTS

Docket C-2374. Complaint, April 2, 1973—Decision, April 2, 1973.

Consent order requiring an Alcoa, Tenn., mobile home dealer to cease, among other things, misrepresenting selling prices, mark-ups, or wholesale costs; failing to disclose additional charges added to the advertised price; representing free service or products unless such are provided free of extra charges; and to cease violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of credit, such information as required by Regulation Z of said Act.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and of the Truth in Lending Act and the implementing regulation promulgated thereunder, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Taylor Mobile Homes, Inc., Taylor Mobile Homes of Knoxville, Inc., Pioneer Mobile Homes, Inc., corporations, and Magic Castle Homes, Inc., a corporation doing business as Taylor Mobile Homes Jr. of Alcoa, Taylor Mobile Homes Jr. of Knoxville and Big Orange Trading Center, and L. Eugene Taylor and Larry J. Taylor, individually and as officers of said corporations, hereinafter referred to as respondents, have violated the provisions of said Acts and implementing regulation, 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:

PAR. 1. Respondents Taylor Mobile Homes, Inc., Taylor Mobile Homes of Knoxville, Inc., Pioneer Mobile Homes, Inc., and Magic Castle Homes, Inc., doing business as Taylor Mobile Homes Jr. of Alcoa, Taylor Mobile Homes Jr. of Knoxville, and Big Orange Trading Center, are corporations organized, existing and doing business under and by virtue of the laws of the State of Tennessee, with their principal place of business and office located at Route 3, Alcoa, Tennessee.

Respondents L. Eugene Taylor and Larry J. Taylor are the principal officers of the corporate respondents. Together they formulate, direct and control the policies, acts and practices of the corporate respondents, including the acts and practices hereinafter set forth. Their business address is the same as that of the corporate respondents.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and delivery of new and used mobile homes to the public.

COUNT I

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

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused, their said products, when sold, to be transported from their place of business located as aforesaid in the State of Tennessee to purchasers thereof located in various other states, 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 business as aforesaid, and for the purpose of inducing the purchase of their products, respondents have made certain statements and representations with respect thereto in advertisements inserted in newspapers of general circulation, and through other advertising media, of which the following are typical and illustrative but not all inclusive:

All Homes Going at Just 3% over cost

Sample Selection
New 1971 60 x 12

Full Price \$3995
New 1971 12 x 48
Cost \$2993

New 24 x 40 3 bedroom Total Electric Fully Furnished
Cost \$5527

Taylor's 3% SALE All Homes Reduced 3% over our cost

Sample Cost

New 1971 60 x 12 2 bedroom \$3693

New 1971 60 x 12 3 bedroom \$3793

Nobody but Taylor can sell for just OVER 3% COST Brand New 1971 60 x 12

Free set-up, Free delivery, even free escort service.

This one low price includes everything FULL PRICE \$3995

Taylor has marked a selected group of homes to just 3% over their cost on the Taylor and Taylor Jr. Lots * * * Just 3% over cost - That's All! Plus you'll get free service and delivery.

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 have represented directly and by implication that:

1. Respondents' selling prices for mobile homes represent a 3 percent markup over wholesale cost.
2. Amounts shown in advertisements for certain mobile homes represent respondents' wholesale cost.
3. Amounts advertised for certain mobile homes represent the total purchase price or cost to customers.
4. Mobiles homes purchased from respondents are serviced free of charge.

PAR. 6. In truth and in fact:

1. Respondents' mobile homes are not customarily sold at prices representing a 3 percent markup over wholesale cost. In fact respondents' markup over wholesale cost is substantially more than 3 percent.
2. Amounts advertised as wholesale cost for certain mobile homes substantially exceed respondents' actual wholesale cost.
3. Amounts advertised as the total purchase price or cost for mobile homes are substantially less than the actual total purchase price or cost to customers. In most instances customers are required to pay additional amounts for taxes, official fees and service.
4. Mobile homes purchased from respondents are not serviced free of charge. In fact an additional amount is added to the selling price of most mobile homes to cover the cost of servicing such units.

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

PAR. 7. In a substantial number of instances and in the usual course of their business, respondents sell and transfer their customers' conditional sales contracts, promissory notes or other instruments of indebtedness to various financial institutions. As a general rule these financial institutions or other purchasers take such instruments free from any claims or defenses which the obligor may have against respondents for respondents' failure to perform or for certain other unfair, false, misleading or deceptive acts and practices. In any subsequent legal action by the financial institution or other purchaser to collect on such

instruments, these claims or defenses of the obligor may be cut off.

Therefore the acts and practices as set forth herein were, and are, unfair, false, misleading and deceptive.

PAR. 8. In the course and conduct of their aforesaid business, and at all times mentioned herein, respondents have been, and now are, in substantial competition, in commerce, with corporation, firms and individuals in the sale of merchandise of the same general kind and nature as that sold by respondents.

PAR. 9. 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' merchandise because of such erroneous and mistaken belief.

PAR. 10. The aforesaid acts and practices of respondents, as alleged herein, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

COUNT II

Alleging violations of the Truth in Lending Act, and the implementing regulation promulgated thereunder, and of the Federal Trade Commission Act, the allegations of Paragraphs One and Two are incorporated by reference in Count II as if fully set forth verbatim.

PAR. 11. In the ordinary course of their business as aforesaid, respondents regularly extend, and for some time last past have regularly extended, consumer credit, as "consumer credit" is defined in Regulation Z, the implementing regulation of the Truth in Lending Act, duly promulgated by the Board of Governors of the Federal Reserve System.

PAR. 12. Subsequent to July 1, 1969, in the ordinary course of their business as aforesaid, and in connection with their credit sales, as "credit sale" is defined in Regulation Z, respondents have caused and are causing their customers to enter into contracts for the sale of respondents' goods and services. On these contracts, hereinafter referred to as "the contract," respondents provide certain consumer credit cost information. Respondents do not provide these customers with any other consumer credit cost disclosures prior to the consummation of

the "credit sale" as required by Section 226.8(a) of Regulation Z.

By and through the use of the contract, respondents:

1. Fail to use the term "total downpayment" to describe the sum of the "cash downpayment" and the "trade-in," as required by Section 226.8(c)(2) of Regulation Z.

2. Fail to include the amount of premiums for credit life insurance in the finance charge, as required by Section 226.8(c)(8)(i) of Regulation Z, since respondents fail to disclose that credit life insurance is not required and fail to obtain separately signed and specifically dated affirmative requests for the credit life insurance, in accordance with Section 226.4(a)(5) of Regulation Z.

3. Fail to disclose the sum of the cash price, all charges which are included in the amount financed but which are not part of the finance charge, and the finance charge and to describe that sum as the "deferred payment price," as required by Section 226.8(c)(8)(ii) of Regulation Z.

4. Fail to disclose the amount, or method of computing the amount, of any default, delinquency, or similar charges payable in event of late payments, as required by Section 226.8(b)(4) of Regulation Z.

5. Fail to identify the method of computing any unearned finance charge in event of prepayment of the obligations and a statement of the amount or method of computation of any charges that may be deducted from the amount of any rebate of such unearned finance charge that will be credited to the obligation or refunded to the customer, as required by Section 226.8(b)(7) of Regulation Z.

6. Fail to make all the disclosures specified in Section 226.8 of Regulation Z on a single side of a document or statement identifying the transaction, as required by Section 226.8(a) of Regulation Z.

PAR. 13. In the ordinary course of their business as aforesaid, respondents cause to be published advertisements of their goods and services, as "advertisement" is defined in Regulation Z. These advertisements aid, promote, or assist directly or indirectly extensions of consumer credit in connection with the sale of these goods and services. By and through the use of the advertisements, respondents:

State the amount of the downpayment required and the amount of monthly installment payments which can be arranged in connection with a consumer credit transaction, without also stating all of the following items, in terminology prescribed

under Section 226.8 of Regulation Z, as required by Section 226.10(d)(2) thereof:

- (i) The cash price;
- (ii) The amount of the downpayment required or that no downpayment is required, as applicable;
- (iii) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;
- (iv) The amount of the finance charge expressed as an annual percentage rate; and
- (v) The deferred payment price.

PAR. 14. Pursuant to Section 103(q) of the Truth in Lending Act, respondents' aforesaid failures to comply with the provisions of Regulation Z constitute violations of that Act and, pursuant to Section 108 thereof, respondents have thereby violated 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 Atlanta Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act and the Truth in Lending Act and the implementing regulation promulgated thereunder; 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 Section 2.34(b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondents Taylor Mobile Homes, Inc., Taylor Mobile Homes of Knoxville, Inc., Pioneer Mobile Homes, Inc., and Magic Castle Homes, Inc., doing business as Taylor Mobile Homes Jr. of Alcoa, Taylor Mobile Homes Jr. of Knoxville and Big Orange Trading Center, are corporation organized, existing and doing business under and by virtue of the laws of the State of Tennessee, with their principal place of business and office located at Route 3, Alcoa, Tennessee.

Respondents L. Eugene Taylor and Larry J. Taylor are the principal officers of said corporations. Together they formulate, direct and control the policies, acts and practices of said corporations and their address is the same as that of said corporations.

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

ORDER

I.

It is ordered, That respondents Taylor Mobile Homes, Inc., Taylor Mobile Homes of Knoxville, Inc., Pioneer Mobile Homes, Inc., corporations, and Magic Castle Homes, Inc., a corporation doing business as Taylor Mobile Homes Jr. of Alcoa, Taylor Mobile Homes Jr. of Knoxville, and Big Orange Trading Center, and their successors and assigns, and their officers, and L. Eugene Taylor and Larry J. Taylor, individually and as officers of said corporations, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale and delivery of mobile homes or any other products or services 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 any product or service may be purchased for any dollar amount or percentage over wholesale cost unless substantial sales are made at the stated markup over respondents' actual wholesale cost, or misrepresenting in any manner respondents' selling prices or markups.

2. Representing, directly or by implication, that any price or amount for any product or service is respondents' wholesale cost unless such price or amount accurately represents respondents' actual wholesale cost, or misrepresenting in any manner respondents' wholesale costs.

3. Failing to disclose any additional amounts, fees or

charges that will be added to the price or amount advertised as the total cost of any product or service.

4. Representing, directly or by implication, that respondents provide free service or products unless such services or products are provided free of extra charges.

It is further ordered, That for a period of five (5) years respondents maintain records which disclose the factual basis for any representation of respondents' cost or special prices for any products or services or any representation of free goods or services.

II.

It is further ordered, That respondents Taylor Mobile Homes, Inc., Taylor Mobile Homes of Knoxville, Inc., Pioneer Mobile Homes, Inc., corporations, and Magic Castle Homes, Inc., a corporation doing business as Taylor Mobile Homes Jr. of Alcoa, Taylor Mobile Homes Jr. of Knoxville and Big Orange Trading Center, their successors and assigns, and their officers, and L. Eugene Taylor and Larry J. Taylor, individually and as officers of said corporations, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with any extension of consumer credit or any advertisement of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR 226) of the Truth in Lending Act (Pub. L. 90-321, 15 U.S.C. 1601 *et seq.*), do forthwith cease and desist from:

1. Failing to use the term "total downpayment" to describe the sum of the "cash downpayment" and the "trade-in," made in connection with any credit sale, as required by Section 226.8(c)(2) of Regulation Z.

2. Failing in any credit sale to include the amount of premiums for credit life insurance in the finance charge, as required by Section 226.8(c)(8)(i) of Regulation Z, unless respondents disclose that credit life insurance is not required and obtain a separately signed and specifically dated signature requesting the insurance in accordance with Section 226.4(a)(5) of Regulation Z.

3. Failing in any credit sale to disclose the sum of the cash price, all charges which are included in the amount financed but which are not part of the finance charge, and the finance charge and to describe that sum as the "deferred payment price," as required by Section 226.8(c)(8)(ii) of Regulation Z.

4. Failing in any credit sale to disclose the amount, or method of computing the amount, of any default, delinquency, or similar charges payable in event of late payments, as required by Section 226.8(b)(4) of Regulation Z.

5. Failing in any credit sale to identify the method of comput-

ing any unearned portion of the finance charge in the event of prepayment of the obligation, or failing to state the amount or method of computation of any charge that may be deducted from the amount of any rebate of such finance charge that will be credited to the obligation or refunded to the customer, whether by failing to state that such charge will be deducted before or after computation of the unearned portion or otherwise, as required by Section 226.8(b)(7) of Regulation Z.

6. Failing in any credit sale to make all the disclosures specified in Section 226.8 of Regulation Z on a single side of a document or statement identifying the transaction, as required by Section 226.8(a) of Regulation Z.

7. Failing in any credit sale to make all disclosures required by Section 226.8 of Regulation Z, in the manner and form prescribed therein.

8. Stating in any advertisement the amount of the downpayment required or the amount of monthly installment payments which can be arranged in connection with a consumer credit transaction, without also stating all of the following items, in terminology prescribed under Section 226.8 of Regulation Z, as required by Section 226.10(d)(2) thereof:

(i) The cash price;

(ii) The amount of the downpayment required or that no downpayment is required, as applicable;

(iii) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;

(iv) The amount of the finance charge expressed as an annual percentage rate; and

(v) The deferred payment price.

9. Failing in any consumer credit transaction or advertisement to make all disclosures, determined in accordance with Sections 226.4 and 226.5 of Regulation Z, in the manner, form and amount required by Sections 226.6, 226.8, 226.9 and 226.10 of Regulation Z.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the consummation of any sale or extension of consumer credit or in any aspect of preparation, creation, or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That respondents notify the Commission

at least thirty (30) days prior to any change in the corporate respondents, such as dissolution, assignment, or sale, resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change which may affect compliance obligations arising out of this order.

It is further ordered, That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business or employment in which they are engaged as well as a description of their duties and responsibilities.

It is further ordered, That respondents 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 the order to cease and desist contained herein.

IN THE MATTER OF

HOLDERBANK FINANCIERE GLARIS S.A., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED
VIOLATION OF THE FEDERAL TRADE COMMISSION ACT AND
CLAYTON ACT, SEC. 7

Docket C-2375. Complaint, April 4, 1973—Decision, April 4, 1973.

Consent order requiring a holding company with its principal office in Holderbank, Canton of Aargau, Switzerland, and its subsidiary head-quartered in Montreal, Canada, among other things to divest itself of an acquired portland cement producer; approving a proposal to sell the acquired company to an individual "as one acceptable but not exclusive method" of compliance with the divestiture provision; and dismissing the complaint as to one of the respondents.

COMPLAINT

The Federal Trade Commission, having reason to believe that the above-named respondents have violated the provisions of Section 7 of the Clayton Act, as amended (U.S.C. Title 15, Section 18) and Section 5 of the Federal Trade Commission Act, as amended (15 U.S.C. Section 45), and that a proceeding with respect thereto would be in the public interest, hereby issues its complaint pursuant to Section 11 of the Clayton Act, as amended (U.S.C. Title 15, Section 21) and Section 5 of the Federal Trade Commission Act (15 U.S.C. Section 45) stating its charges as follows:

I. DEFINITIONS

1. For the purpose of this complaint the following definitions shall apply:

(a) "Portland cement" includes Type I through V of portland cement as specified by the American Society for Testing Materials. Neither masonry nor white cement is included.

(b) "Detroit area" consists of the counties of Macomb, Oakland and Wayne, Michigan.

II. HOLDERBANK FINANCIERE GLARIS S.A.

2. Holderbank Financiere Glaris S.A. (hereafter "Holderbank"), was incorporated in the Canton of Glaris, Switzerland on August 4, 1930. It is a holding company organized and existing under the laws of Switzerland and has its principal office located in the town of Holderbank, Canton of Aargau, Switzerland.

3. Holderbank is principally engaged in the manufacture, sale and distribution of cement throughout the free world, with manufacturing plants located in Switzerland, Germany, Austria, France, Belgium, Netherlands, Lebanon, South Africa, Mexico, Costa Rica, Columbia, Brazil, Peru, Australia, Canada and the United States.

4. The Holderbank group has a total worldwide annual cement production capacity in excess of 90 million barrels, is a major supplier of portland cement in Holland, Italy and Lebanon, is a leading marketer of portland cement in France, Greece, the Belgian Congo, Brazil, Sudan, South Africa, Mexico, Costa Rica, Canada and the United States, and accounts for approximately 50 percent of the cement production in Switzerland and Belgium. The Holderbank group had net sales of S Fr. 1,202,603,000, net earnings of S Fr. 97,434,000 and total assets of S Fr. 2,680,696,000 in 1970.

5. Holderbank maintains a technical center in Switzerland where scientists, chemists and engineers conduct research on the technological aspects of cement and concrete. Information supplied by all cement producing plants is collected and made available to all members of the Holderbank group and in turn, such research information is disseminated to the operating companies to further increase the quality of cement and efficiency of operation.

6. The first entry of Holderbank into North America was made in 1953 when a portland cement plant was built at Villeneuve, Canada, near Quebec City. A subsequent plant was built in 1956 at Clarkson, near Toronto, on the shores of Lake Ontario. These plants operate under the name St. Lawrence Cement Co.

7. Holderbank, through stock ownership and through interlocking directors, maintains working control of both St. Lawrence Cement Co. and Dundee Cement Company, which companies are further described hereinafter.

8. At all times relevant herein, Holderbank, through its subsidiaries St. Lawrence Cement Co. and Dundee Cement Company, was a corporation engaged in commerce, as "commerce" is defined in the Clayton Act and the Federal Trade Commission Act.

III. ST. LAWRENCE CEMENT CO.

9. St. Lawrence Cement Co. (hereafter "St. Lawrence"), is a corporation organized and existing under the laws of the province of Quebec, Canada, with its principal office located at 50 Place Cremazie West, Suite 1024, Montreal 351 P.Q., Canada. Holderbank is by far the largest stockholder in St. Lawrence and maintains working control of the company through its ownership of 49.745 percent of the voting stock, through common directors, and by the transfer of executive personnel between the two companies.

10. St. Lawrence is principally engaged in the manufacture, sale and distribution of portland cement. From its 3,000,000 barrel capacity plant at Villeneuve, Quebec and its 6,000,000 barrel plant at Mississauga, Ontario, Canada (Clarkson), it distributes portland cement in the Canadian provinces of Nova Scotia, New Brunswick, Prince Edward Island, Quebec and Ontario, and in the United States in the States of New York, Michigan, Maine, Vermont and Massachusetts. St. Lawrence is also engaged in the production, sale and distribution in Canada of building materials, including ready mixed concrete, asphalt, crushed stone, sand, concrete block and prestressed concrete, as well as the construction of roads and industrial paving.

11. In 1970 St. Lawrence had net sales of \$49,384,709 (Canadian), net earnings of \$1,870,622 (Canadian), and assets as of December 31, 1970 of \$81,447,495 (Canadian).

12. At all times relevant herein, St. Lawrence was engaged in selling and shipping portland cement in interstate commerce and was a corporation engaged in commerce, as "commerce" is defined in the Clayton Act and the Federal Trade Commission Act.

IV. DUNDEE CEMENT COMPANY

13. Dundee Cement Company (hereafter "Dundee") is a corporation organized and existing under the laws of the State of Delaware, with its principal office located at Dundee, Michigan.

