

## IN THE MATTER OF

JOHN HANCOCK MUTUAL LIFE INSURANCE CO., ET  
AL.CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF  
THE FEDERAL TRADE COMMISSION AND CLAYTON ACTS

*Docket C-2930. Complaint, Sept. 19, 1978 — Decision, Sept. 19, 1978*

These four (4) consent orders, among other things, require four (4) Boston, Massachusetts insurance companies to cease interlocking directors by allowing any individual to sit on their boards who is simultaneously sitting on the board of any of the other boards or of any other competitive firms. The consent orders additionally require the companies to initiate prescribed procedures designed to eliminate interlocking directorates, and to submit detailed compliance reports to the Commission annually for a five-year period.

*Appearances*

For the Commission: *Patrick J. Quinlan* and *Alan Proctor*.

For the respondents: *Andrew C. Hartzell, Jr.* for John Hancock Mutual Life Insurance Co., *John S. Kingdon* for New England Mutual Life Insurance Co. and *Edwin M. Zimmerman* for State Mutual Life Assurance Co. and Liberty Mutual Insurance Co., Boston, Mass.

## COMPLAINT

The Federal Trade Commission having reason to believe that the above-named respondents have violated Section 8 of the Clayton Act and Section 5 of the Federal Trade Commission Act, and that a proceeding in respect thereof, would be in the interest of the public, issues this complaint, stating its charges as follows:

PARAGRAPH 1. The following definitions apply in this complaint:

(a) "John Hancock" means John Hancock Mutual Life Insurance Company, the respondent, and all of its insurance company subsidiaries.

(b) "Liberty Mutual" means Liberty Mutual Insurance Company, the respondent, Liberty Mutual Fire Insurance Company and all of their insurance company subsidiaries.

(c) "New England Mutual" means New England Mutual Life Insurance Company, the respondent, and all of its insurance company subsidiaries.

(d) "State Mutual" means State Mutual Life Assurance Company of America, the respondent, and all insurance company members of

"The America Group," including American Variable Annuity Life Assurance Company, The Hanover Insurance Company, Worcester Mutual Insurance Company, and The Beacon Mutual Indemnity Company, and all of their insurance company subsidiaries.

(e) "Subsidiary" of a corporation (parent) means any corporation 50 percent or more of the voting stock (or other indicia of control for non-stock corporations) of which is owned or controlled, directly or indirectly, other than as a fiduciary, by such corporation (parent).

(f) "Sister" of a corporation means any corporation of which more than 50 percent of the voting stock (or other indicia of control for non-stock corporations) is directly or indirectly owned or controlled by the same corporation which owns or controls directly or indirectly 50 percent or more of the voting stock (or other indicia of control for non-stock corporations) of the subject corporation.

(g) "Insurance company" means any corporation engaged in the underwriting of insurance which is organized and existing as an insurance company under the laws of any state and which files an Annual Statement to Insurance Commissioner in such state or any corporation which has such an insurance company as a subsidiary.

(h) "Lines of insurance" means the lines of business shown in the NAIC Annual Statement to Insurance Commissioner blank forms, as amended from time to time.

(i) "Annual premiums" means the total direct premiums derived by an insurance company from any line of insurance during a calendar year less dividends to policyholders attributable to that line of insurance, and excluding premiums derived from any line of insurance sold to a subsidiary, sister or parent.

PAR. 2. Respondent John Hancock Mutual Life Insurance Company is a corporation organized and existing under and by virtue of the laws of the Commonwealth of Massachusetts. It maintains its principal place of business at John Hancock Place, Boston, Massachusetts and has capital, surplus and undivided profits aggregating more than one million dollars.

PAR. 3. Respondent Liberty Mutual Insurance Company is a corporation organized and existing under and by virtue of the laws of the Commonwealth of Massachusetts. It maintains its principal place of business at 175 Berkeley St., Boston, Massachusetts and has capital, surplus and undivided profits aggregating more than one million dollars.

PAR. 4. Respondent New England Mutual Life Insurance Company is a corporation organized and existing under and by virtue of the laws of the Commonwealth of Massachusetts. It maintains its principal place of business at 501 Boylston St., Boston, Massachu-

setts and has capital, surplus and undivided profits aggregating more than one million dollars.

PAR. 5. Respondent State Mutual Life Assurance Company of America is a corporation organized and existing under and by virtue of the laws of the Commonwealth of Massachusetts. It maintains its principal place of business at 440 Lincoln St., Worcester, Massachusetts and has capital, surplus and undivided profits aggregating more than one million dollars.

PAR. 6. Roger C. Damon is a member of the boards of directors of Liberty Mutual Insurance Company and New England Mutual Life Insurance Company. He is also a member of the Finance Committee of New England Mutual Life Insurance Company.

PAR. 7. Thomas J. Galligan, Jr., is a member of the boards of directors of Liberty Mutual Insurance Company and New England Mutual Life Insurance Company. He is also a member of the Finance Committee of New England Mutual Life Insurance Company.

PAR. 8. Richard D. Hill is a member of the boards of directors of Liberty Mutual Insurance Company and John Hancock Mutual Life Insurance Company.

PAR. 9. D. Thomas Trigg is a member of the boards of directors of Liberty Mutual Insurance Company and State Mutual Life Assurance Company of America.

PAR. 10. John Hancock conducts its business in the fifty States of the United States and the District of Columbia. During the calendar year ending December 31, 1975, its business encompassed, but was not limited to, the sale of the following lines of insurance in the following amounts:

Lines of Business	Annual Premiums Written During 1975
Group Accident and Health	407,519,427
Ordinary Life	586,604,681
Group Life	212,735,047
Individual Annuities	5,619,142

PAR. 11. Liberty Mutual conducts its business in the fifty States of the United States and the District of Columbia. During the calendar year ending December 31, 1975, its business encompassed, but was not limited to, the sale of the following lines of insurance in the following amounts:

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Lines of Business	Annual Premiums Written During 1975
Fire	6,482,256
Allied Lines	4,561,932
Homeowner's Multiple Peril	56,062,660
Commercial Multiple Peril	21,324,904
Inland Marine	12,081,305
Group Accident and Health	98,410,880
Other Accident and Health	2,924,900
Workmen's Compensation	413,965,016
Other Liability	112,867,361
Auto Liability	271,919,902
Auto Physical Damage	124,330,409
Fidelity	2,157,232
Burglary/Theft	2,025,214
Ordinary Life	5,766,025
Group Life	8,811,364
Individual Annuities	66,331

PAR. 12. New England Mutual conducts its business in the fifty States of the United States and the District of Columbia. During the calendar year ending December 31, 1975, its business encompassed, but was not limited to, the sale of the following lines of insurance in the following amounts:

Lines of Business	Annual Premiums Written During 1975
Group Accident and Health	56,167,752
Ordinary Life	318,329,892
Group Life	21,133,487
Individual Annuities	22,791,633

PAR. 13. State Mutual conducts its business in the fifty States of the United States and the District of Columbia. During the calendar year ending December 31, 1975 its business encompassed, but was not limited to, the sale of the following lines of insurance in the following amounts:

Lines of Business	Annual Premiums Written During 1975
Fire	24,765,253
Allied Lines	10,683,161

Homeowner's Multiple Peril	34,434,834
Commercial Multiple Peril	23,957,896
Inland Marine	6,497,439
Group Accident and Health	50,636,102
Other Accident and Health	4,086,048
Workmen's Compensation	31,998,014
Other Liability	108,356,934
Auto Liability	55,692,894
Auto Physical Damage	41,380,235
Ocean Marine	6,004,993
Aircraft	9,767,027
Surety	2,329,641
Ordinary Life	103,594,266
Group Life	18,621,943
Individual Annuities	1,198,888

PAR. 14. (a) By the nature of their business and the locations of their operations as hereinabove described, Liberty Mutual and New England Mutual are competitors of each other in the sale of insurance, including but not necessarily limited to, the sale of the following lines of insurance: group accident and health, ordinary life, group life, and individual annuities.

(b) The elimination, by agreement or otherwise, of competition between Liberty Mutual and New England Mutual would constitute a violation of the antitrust laws.

PAR. 15. (a) By the nature of their business and the locations of their operations as hereinabove described, John Hancock and Liberty Mutual are competitors in the sale of insurance, including but not necessarily limited to, the sale of the following lines of insurance: group accident and health, ordinary life, group life, and individual annuities.

(b) The elimination, by agreement or otherwise, of competition between John Hancock and Liberty Mutual would constitute a violation of the antitrust laws.

PAR. 16. (a) By the nature of their business and the locations of their operations as hereinabove described, State Mutual and Liberty Mutual are competitors of each other in the sale of insurance, including but not necessarily limited to, the sale of the following lines of insurance: fire, allied lines, homeowner's multiple peril, commercial multiple peril, inland marine, group accident and health, other accident and health, workmen's compensation, other

liability, auto liability, auto physical damage, ordinary life, group life, and individual annuities.

(b) The elimination, by agreement or otherwise, of competition between State Mutual and Liberty Mutual would constitute a violation of the antitrust laws.

PAR. 17. (a) John Hancock, Liberty Mutual, New England Mutual and State Mutual conduct their business, as hereinabove described, in the District of Columbia and in various States of the United States.

(b) John Hancock, Liberty Mutual, New England Mutual and State Mutual engage in "commerce" and conduct their business, including activities involving their boards of directors, so as to have an effect upon "commerce," as the term "commerce" is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. 44 and in Section 1 of the Clayton Act, 15 U.S.C. 12.

PAR. 18. Roger C. Damon's simultaneous membership on the boards of directors of both Liberty Mutual Insurance Company and New England Mutual Life Insurance Company is a violation by Liberty Mutual Insurance Company and New England Mutual Life Insurance Company of Section 8 of the Clayton Act, 15 U.S.C. 21. It is also an unfair act, practice, or method of competition in or affecting commerce and, therefore, constitutes a violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, by Liberty Mutual Insurance Company and New England Mutual Life Insurance Company.

PAR. 19. Thomas J. Galligan, Jr.'s simultaneous membership on the boards of directors of both Liberty Mutual Insurance Company and New England Mutual Life Insurance Company is a violation by Liberty Mutual Insurance Company and New England Mutual Life Insurance Company of Section 8 of the Clayton Act, 15 U.S.C. 21. It is also an unfair act, practice, or method of competition in or affecting commerce and, therefore, constitutes a violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, by Liberty Mutual Insurance Company and New England Mutual Life Insurance Company.

PAR. 20. Richard D. Hill's simultaneous membership on the boards of directors of both Liberty Mutual Insurance Company and John Hancock Mutual Life Insurance Company is a violation by Liberty Mutual Insurance Company and John Hancock Mutual Life Insurance Company of Section 8 of the Clayton Act, 15 U.S.C. 21. It is also an unfair act, practice, or method of competition in or affecting commerce and, therefore, constitutes a violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, by Liberty Mutual

Insurance Company and John Hancock Mutual Life Insurance Company.

PAR. 21. D. Thomas Trigg's simultaneous membership on the boards of directors of both Liberty Mutual Insurance Company and State Mutual Life Assurance Company of America is a violation by Liberty Mutual Insurance Company and State Mutual Life Assurance Company of America of Section 8 of the Clayton Act, 15 U.S.C. 21. It is also an unfair act, practice, or method of competition in or affecting commerce and, therefore, constitutes a violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, by Liberty Mutual Insurance Company and State Mutual Life Assurance Company of America.

DECISION AND ORDER RE RESPONDENT JOHN HANCOCK  
MUTUAL LIFE INSURANCE COMPANY

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of Section 8 of the Clayton Act and Section 5(a)(1) of the Federal Trade Commission Act; and

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

The Commission having considered the agreement and having provisionally accepted same, and the agreement containing a consent order having thereupon been placed on the public record for a period of sixty (60) days, and now in conformity with the procedure provided by Section 2.34 of its Rules, the Commission hereby issues its decision in disposition of the proceeding against the above-named respondent, makes the following jurisdictional findings, and enters the following order:

1. Respondent is a corporation incorporated under the laws of the Commonwealth of Massachusetts and maintains its principal office at John Hancock Place, Boston, Massachusetts.
2. The Federal Trade Commission has jurisdiction over the

subject matter of this proceeding and over the respondent, and the proceeding is in the public interest.

#### ORDER

##### I

*It is ordered,* That the following definitions shall apply in this order:

(a) "John Hancock" means John Hancock Mutual Life Insurance Company, the respondent, and all of its insurance company subsidiaries.

(b) "Subsidiary" of a corporation (parent) means any corporation 50 percent or more of the voting stock (or other indicia of control for non-stock corporations) of which is owned or controlled, directly or indirectly, other than as a fiduciary, by such corporation (parent).

(c) "Sister" of a corporation means any corporation of which more than 50 percent of the voting stock (or other indicia of control for non-stock corporations) is directly or indirectly owned or controlled by the same corporation which owns or controls directly or indirectly 50 percent or more of the voting stock (or other indicia of control for non-stock corporations) of the subject corporation.

(d) "Insurance company" means any corporation engaged in the underwriting of insurance which is organized and existing as an insurance company under the laws of any state and which files an Annual Statement to Insurance Commissioner in such state or any corporation which has such an insurance company as a subsidiary.

(e) "Lines of insurance" means the lines of business shown in the NAIC Annual Statement to Insurance Commissioner blank forms, as amended from time to time.

(f) "Annual premiums" means the total direct premiums derived by an insurance company from any line of insurance during a calendar year less dividends to policyholders attributable to that line of insurance, and excluding premiums derived from any line of insurance sold to a subsidiary, sister or parent.

##### II

*It is further ordered,* That respondent, its successors and assigns, do forthwith cease and desist from permitting any individual to serve as a director or to be a nominee for director of respondent if such individual is or would be at the same time a director or nominee for director of Liberty Mutual Insurance Company so long as respondent and Liberty Mutual Insurance Company are in competition in the underwriting of one or more lines of insurance.

## III

*It is further ordered*, That respondent, its successors and assigns, do as follows:

(a) Thirty days after the date upon which this order, as finally issued by the Commission, is served on the respondent, the respondent shall report in writing to the Commission that no director of the respondent nor any nominee for director of the respondent is then a director or nominee for director of Liberty Mutual Insurance Company. Thereafter, annually for a period of five (5) years beginning on October 15, 1978, and ending on October 15, 1982, the respondent shall report in writing to the Commission that no director of the respondent, nor any nominee for director of the respondent, serves as a director, or is then a nominee for director, of an insurance company which has, pursuant to the reports and review prescribed in Paragraph III(b), been disclosed and determined to be in competition with John Hancock, or that all legally available steps to remove or prevent such persons from service on the Board of respondent have been taken.

(b) Prior to and as the basis for making the annual report required in Paragraph III(a) hereto, the respondent shall do the following:

(1) The respondent shall require a written report to the respondent from each director and each nominee for director, identifying each other corporation as to which said director or nominee for director is also a director or nominee for director, and, if such corporation is an insurance company, listing each line of insurance underwritten by each such insurance company for which, during the immediately preceding calendar year, annual premiums received by that company exceeded \$2,000,000. When requesting such report, the respondent shall furnish each director and nominee for director a copy of the complaint and order in this proceeding.

(2) The respondent shall determine by reviewing *Best's Insurance Reports, Fire and Casualty* and *Best's Insurance Reports, Life*, published by Alfred M. Best Company, Inc., and consulting appropriate personnel within John Hancock, whether the lists of lines of insurance reported to the respondent pursuant to Paragraph III(b)(1) hereof are complete and accurate and shall use reasonable diligence to determine whether any line of insurance required to be reported pursuant to Paragraph III(b)(1) hereof is in competition with any line of insurance underwritten by John Hancock for which, during the immediately preceding calendar year, annual premiums received by John Hancock exceeded \$2,000,000.

(c) In the event that the process of review required by Paragraph

III(b) hereof discloses the existence of competition in any line of insurance between John Hancock and any other insurance company identified in any report furnished pursuant to Paragraph III(b)(1), the respondent shall prevent the service as director or the nomination or election as director of any person who remains as a director or nominee for director of that insurance company, provided that the Respondent shall be allowed a reasonable period of time from the date of such disclosure within which so to prevent such service, nomination or election by taking such steps as are legally available to it to comply with this provision.

(d) In the event that any director or nominee for director of the respondent fails or refuses to provide in good faith the report required by Paragraph III(b)(1) hereof, the respondent shall prevent such person from remaining as a director or nominee for director of the respondent, provided that the respondent shall be allowed a reasonable period of time from the date of such failure or refusal within which so to prevent such person from so remaining by taking such steps as are legally available to it to comply with this provision.

(e) The respondent's report to the Commission, which is to be made on an annual basis as described in Paragraph III(a) hereof, shall contain the written reports of the individual directors and nominees for director required by Paragraph III(b)(1) hereof and a copy of the respondent's written request to such directors and nominees for director and shall set forth the manner and form in which the respondent has complied with this order.

#### IV

*It is further ordered.* That the provisions of Paragraph III hereof shall not apply where the corporation referred to is included in the definition of John Hancock above or is John Hancock's (1) parent, (2) sister, or (3) subsidiary.

#### DECISION AND ORDER RE RESPONDENT LIBERTY MUTUAL INSURANCE COMPANY

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of Section 8 of the Clayton Act and Section 5(a)(1) of the Federal Trade Commission Act; and

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

The Commission having considered the agreement and having provisionally accepted same, and the agreement containing a consent order having thereupon been placed on the public record for a period of sixty (60) days, and now in conformity with the procedure provided by Section 2.34 of its Rules, the Commission hereby issues its decision in disposition of the proceeding against the above-named respondent, makes the following jurisdictional findings, and enters the following order:

1. Respondent is a corporation incorporated under the laws of the Commonwealth of Massachusetts and maintains its principal office at 175 Berkeley St., Boston, Massachusetts.
2. The Federal Trade Commission has jurisdiction over the subject matter of this proceeding and over the respondent, and the proceeding is in the public interest.

#### ORDER

##### I

*It is ordered,* That the following definitions shall apply in this order:

(a) "Liberty Mutual" means Liberty Mutual Insurance Company, the respondent, Liberty Mutual Fire Insurance Company and all of their insurance company subsidiaries.

(b) "Subsidiary" of a corporation (parent) means any corporation 50 percent or more of the voting stock (or other indicia of control for non-stock corporations) of which is owned or controlled, directly or indirectly, other than as a fiduciary, by such corporation (parent).

(c) "Sister" of a corporation means any corporation of which more than 50 percent of the voting stock (or other indicia of control for non-stock corporations) is directly or indirectly owned or controlled by the same corporation which owns or controls directly or indirectly 50 percent or more of the voting stock (or other indicia of control for non-stock corporations) of the subject corporation.

(d) "Insurance company" means any corporation engaged in the underwriting of insurance which is organized and existing as an

insurance company under the laws of any state and which files an Annual Statement to Insurance Commissioner in such state or any corporation which has such an insurance company as a subsidiary.

(e) "Lines of insurance" means the lines of business shown in the NAIC Annual Statement to Insurance Commissioner blank forms, as amended from time to time.

(f) "Annual premiums" means the total direct premiums derived by an insurance company from any line of insurance during a calendar year less dividends to policyholders attributable to that line of insurance, and excluding premiums derived from any line of insurance sold to a subsidiary, sister or parent.

## II

*It is further ordered,* That respondent, its successors and assigns, do forthwith cease and desist from permitting any individual to serve as a director or to be a nominee for director of respondent if such individual is or would be at the same time a director or nominee for director of John Hancock Mutual Life Insurance Company or New England Mutual Life Insurance Company or State Mutual Life Assurance Company of America so long as respondent and any of the said companies of which said individual is or would at the same time be a director or nominee for director are in competition in the underwriting of one or more lines of insurance.

## III

*It is further ordered,* That respondent, its successors and assigns, do as follows:

(a) Thirty days after the date upon which this order, as finally issued by the Commission, is served on the respondent, the respondent shall report in writing to the Commission that no director of the respondent nor any nominee for director of the respondent is then a director or nominee for director of John Hancock Mutual Life Insurance Company or New England Mutual Life Insurance Company or State Mutual Life Assurance Company of America. Thereafter, annually for a period of five (5) years beginning on October 15, 1978, and ending on October 15, 1982, the respondent shall report in writing to the Commission that no director of the respondent, nor any nominee for director of the respondent, serves as a director, or is then a nominee for director, of an insurance company which has, pursuant to the reports and review prescribed in Paragraph III(b), been disclosed and determined to be in competition with Liberty Mutual, or that all legally

available steps to remove or prevent such persons from service on the Board of respondent have been taken.

(b) Prior to and as the basis for making the annual report required in Paragraph III(a) hereto, the respondent shall do the following:

(1) The respondent shall require a written report to the respondent from each director and each nominee for director, identifying each other corporation as to which said director or nominee for director is also a director or nominee for director, and, if such corporation is an insurance company, listing each line of insurance underwritten by each such insurance company for which, during the immediately preceding calendar year, annual premiums received by that company exceeded \$2,000,000. When requesting such report, the respondent shall furnish each director and nominee for director a copy of the complaint and order in this proceeding.

(2) The respondent shall determine by reviewing *Best's Insurance Reports, Fire and Casualty* and *Best's Insurance Reports, Life*, published by Alfred M. Best Company, Inc., and consulting appropriate personnel within Liberty Mutual, whether the lists of lines of insurance reported to the respondent pursuant to Paragraph III(b)(1) hereof are complete and accurate and shall use reasonable diligence to determine whether any line of insurance required to be reported pursuant to Paragraph III(b)(1) hereof is in competition with any line of insurance underwritten by Liberty Mutual for which, during the immediately preceding calendar year, annual premiums received by Liberty Mutual exceeded \$2,000,000.

(c) In the event that the process of review required by Paragraph III(b) hereof discloses the existence of competition in any line of insurance between Liberty Mutual and any other insurance company identified in any report furnished pursuant to Paragraph III(b)(1), the respondent shall prevent the service as director or the nomination or election as director of any person who remains as a director or nominee for director of that insurance company, provided that the respondent shall be allowed a reasonable period of time from the date of such disclosure within which so to prevent such service, nomination or election by taking such steps as are legally available to it to comply with this provision.

(d) In the event that any director or nominee for director of the respondent fails or refuses to provide in good faith the report required by Paragraph III(b)(1) hereof, the respondent shall prevent such person from remaining as a director or nominee for director of the respondent, provided that the respondent shall be allowed a reasonable period of time from the date of such failure or refusal

within which so to prevent such person from so remaining by taking such steps as are legally available to it to comply with this provision.

(e) The respondent's report to the Commission, which is to be made on an annual basis as described in Paragraph III(a) hereof, shall contain the written reports of the individual directors and nominees for director required by Paragraph III(b)(1) hereof and a copy of the respondent's written request to such directors and nominees for director and shall set forth the manner and form in which the respondent has complied with this order.

#### IV

*It is further ordered*, That the provisions of Paragraph III hereof shall not apply where the corporation referred to is included in the definition of Liberty Mutual above or is Liberty Mutual's (1) parent, (2) sister, or (3) subsidiary.

#### DECISION AND ORDER RE RESPONDENT NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of Section 8 of the Clayton Act and Section 5(a)(1) of the Federal Trade Commission Act; and

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

The Commission having considered the agreement and having provisionally accepted same, and the agreement containing a consent order having thereupon been placed on the public record for a period of sixty (60) days, and now in conformity with the procedure provided by Section 2.34 of its Rules, the Commission hereby issues its decision in disposition of the proceeding against the above-named respondent, makes the following jurisdictional findings, and enters the following order:

1. Respondent is a corporation incorporated under the laws of the Commonwealth of Massachusetts and maintains its principal office at 501 Boylston St., Boston, Massachusetts.

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

## ORDER

### I

*It is ordered,* That the following definitions shall apply in this order:

(a) "New England Mutual" means New England Mutual Life Insurance Company, the respondent, and all of its insurance company subsidiaries.

(b) "Subsidiary" of a corporation (parent) means any corporation 50 percent or more of the voting stock (or other indicia of control for non-stock corporations) of which is owned or controlled, directly or indirectly, other than as a fiduciary, by such corporation (parent).

(c) "Sister" of a corporation means any corporation of which more than 50 percent of the voting stock (or other indicia of control for non-stock corporations) is directly or indirectly owned or controlled by the same corporation which owns or controls directly or indirectly 50 percent or more of the voting stock (or other indicia of control for non-stock corporations) of the subject corporation.

(d) "Insurance company" means any corporation engaged in the underwriting of insurance which is organized and existing as an insurance company under the laws of any state and which files an Annual Statement to Insurance Commissioner in such state or any corporation which has such an insurance company as a subsidiary.

(e) "Lines of insurance" means the lines of business shown in the NAIC Annual Statement to Insurance Commissioner blank forms, as amended from time to time.

(f) "Annual premiums" means the total direct premiums derived by an insurance company from any line of insurance during a calendar year less dividends to policyholders attributable to that line of insurance, and excluding premiums derived from any line of insurance sold to a subsidiary, sister or parent.

### II

*It is further ordered,* That respondent, its successors and assigns, do forthwith cease and desist from permitting any individual to serve as a director or to be a nominee for director of respondent if such

individual is or would be at the same time a director or nominee for director of Liberty Mutual Insurance Company so long as respondent and Liberty Mutual Insurance Company are in competition in the underwriting of one or more lines of insurance.

### III

*It is further ordered,* That respondent, its successors and assigns, do as follows:

(a) Thirty days after the date upon which this order, as finally issued by the Commission, is served on the respondent, the respondent shall report in writing to the Commission that no director of the respondent nor any nominee for director of the respondent is then a director or nominee for director of Liberty Mutual Insurance Company. Thereafter, annually for a period of five (5) years beginning on October 15, 1978, and ending on October 15, 1982, the respondent shall report in writing to the Commission that no director of the respondent, nor any nominee for director of the respondent, serves as a director, or is then a nominee for director, of an insurance company which has, pursuant to the reports and review prescribed in Paragraph III(b), been disclosed and determined to be in competition with New England Mutual, or that all legally available steps to remove or prevent such persons from service on the Board of respondent have been taken.

(b) Prior to and as the basis for making the annual report required in Paragraph III(a) hereto, the respondent shall do the following:

(1) The respondent shall require a written report to the respondent from each director and each nominee for director, identifying each other corporation as to which said director or nominee for director is also a director or nominee for director, and, if such corporation is an insurance company, listing each line of insurance underwritten by each such insurance company for which, during the immediately preceding calendar year, annual premiums received by that company exceeded \$2,000,000. When requesting such report, the respondent shall furnish each director and nominee for director a copy of the complaint and order in this proceeding.

(2) The respondent shall determine, by reviewing *Best's Insurance Reports, Fire and Casualty* and *Best's Insurance Reports, Life*, published by Alfred M. Best Company, Inc., and consulting appropriate personnel within New England Mutual, whether the lists of lines of insurance reported to the respondent pursuant to Paragraph III(b)(1) hereof are complete and accurate and shall use reasonable diligence to determine whether any line of insurance required to be reported pursuant to Paragraph III(b)(1) hereof is in competition

with any line of insurance underwritten by New England Mutual for which, during the immediately preceding calendar year, annual premiums received by New England Mutual exceeded \$2,000,000.

(c) In the event that the process of review required by Paragraph III(b) hereof discloses the existence of competition in any line of insurance between New England Mutual and any other insurance company identified in any report furnished pursuant to Paragraph III(b)(1), the respondent shall prevent the service as director or the nomination or election as director of any person who remains as a director or nominee for director of that insurance company, provided that the respondent shall be allowed a reasonable period of time from the date of such disclosure within which so to prevent such service, nomination or election by taking such steps as are legally available to it to comply with this provision.

(d) In the event that any director or nominee for director of the respondent fails or refuses to provide in good faith the report required by Paragraph III(b)(1) hereof, the respondent shall prevent such person from remaining as a director or nominee for director of the respondent, provided that the respondent shall be allowed a reasonable period of time from the date of such failure or refusal within which so to prevent such person from so remaining by taking such steps as are legally available to it to comply with this provision.

(e) The respondent's report to the Commission, which is to be made on an annual basis as described in Paragraph III(a) hereof, shall contain the written reports of the individual directors and nominees for director required by Paragraph III(b)(1) hereof and a copy of the respondent's written request to such directors and nominees for director and shall set forth the manner and form in which the respondent has complied with this order.

#### IV

*It is further ordered,* That the provisions of Paragraph III hereof shall not apply where the corporation referred to is included in the definition of New England Mutual above or is New England Mutual's (1) parent, (2) sister, or (3) subsidiary.

#### DECISION AND ORDER RE RESPONDENT STATE MUTUAL LIFE ASSURANCE COMPANY OF AMERICA

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Competition proposed to

present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of Section 8 of the Clayton Act and Section 5(a)(1) of the Federal Trade Commission Act; and

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

The Commission having considered the agreement and having provisionally accepted same, and the agreement containing a consent order having thereupon been placed on the public record for a period of sixty (60) days, and now in conformity with the procedure provided by Section 2.34 of its Rules, the Commission hereby issues its decision in disposition of the proceeding against the above-named respondent, makes the following jurisdictional findings, and enters the following order:

1. Respondent is a corporation incorporated under the laws of the Commonwealth of Massachusetts and maintains its principal office at 440 Lincoln St., Worcester, Massachusetts.
2. The Federal Trade Commission has jurisdiction over the subject matter of this proceeding and over the respondent, and the proceeding is in the public interest.

## I

*It is ordered,* That the following definitions shall apply in this order:

(a) "State Mutual" means State Mutual Life Assurance Company of America, the respondent, and all insurance company members of "The American Group," including American Variable Annuity Life Assurance Company, The Hanover Insurance Company, Worcester Mutual Insurance Company, and The Beacon Mutual Indemnity Company, and all of their insurance company subsidiaries.

(b) "Subsidiary" of a corporation (parent) means any corporation 50 percent or more of the voting stock (or other indicia of control for non-stock corporations) of which is owned or controlled, directly or indirectly, other than as a fiduciary, by such corporation (parent).

(c) "Sister" of a corporation means any corporation of which more than 50 percent of the voting stock (or other indicia of control for non-stock corporations) is directly or indirectly owned or controlled

by the same corporation which owns or controls directly or indirectly 50 percent or more of the voting stock (or other indicia of control for non-stock corporations) of the subject corporation.

(d) "Insurance company" means any corporation engaged in the underwriting of insurance which is organized and existing as an insurance company under the laws of any state and which files an Annual Statement to Insurance Commissioner in such state or any corporation which has such an insurance company as a subsidiary.

(e) "Lines of insurance" means the lines of business shown in the NAIC Annual Statement to Insurance Commissioner blank forms, as amended from time to time.

(f) "Annual premiums" means the total direct premiums derived by an insurance company from any line of insurance during a calendar year less dividends to policyholders attributable to that line of insurance, and excluding premiums derived from any line of insurance sold to a subsidiary, sister or parent.

## II

*It is further ordered,* That respondent, its successors and assigns, do forthwith cease and desist from permitting any individual to serve as a director or to be a nominee for director of respondent if such individual is or would be at the same time a director or nominee for director of Liberty Mutual Insurance Company so long as respondent and Liberty Mutual Insurance Company are in competition in the underwriting of one or more lines of insurance.

## III

*It is further ordered,* That respondent, its successors and assigns, do as follows:

(a) Thirty days after the date upon which this order, as finally issued by the Commission, is served on the respondent, the respondent shall report in writing to the Commission that no director of the respondent nor any nominee for director of the respondent is then a director or nominee for director of Liberty Mutual Insurance Company. Thereafter, annually for a period of five (5) years beginning on October 15, 1978, and ending on October 15, 1982, the respondent shall report in writing to the Commission that no director of the respondent, nor any nominee for director of the respondent, serves as a director, or is then a nominee for director, of an insurance company which has, pursuant to the reports and review prescribed in Paragraph III(b), been disclosed and determined to be in competition with State Mutual, or that all legally available

steps to remove or prevent such persons from service on the Board of respondent have been taken.

(b) Prior to and as the basis for making the annual report required in Paragraph III(a) hereto, the respondent shall do the following:

(1) The respondent shall require a written report to the respondent from each director and each nominee for director, identifying each other corporation as to which said director or nominee for director is also a director or nominee for director, and, if such corporation is an insurance company, listing each line of insurance underwritten by each such insurance company for which, during the immediately preceding calendar year, annual premiums received by that company exceeded \$2,000,000. When requesting such report, the respondent shall furnish each director and nominee for director a copy of the complaint and order in this proceeding.

(2) The respondent shall determine by reviewing *Best's Insurance Reports, Fire and Casualty* and *Best's Insurance Reports, Life*, published by Alfred M. Best Company, Inc., and consulting appropriate personnel within State Mutual, whether the lists of lines of insurance reported to the respondent pursuant to Paragraph III(b)(1) hereof are complete and accurate and shall use reasonable diligence to determine whether any line of insurance required to be reported pursuant to Paragraph III(b)(1) hereof is in competition with any line of insurance underwritten by State Mutual for which, during the immediately preceding calendar year, annual premiums received by State Mutual exceeded \$2,000,000.

(c) In the event that the process of review required by Paragraph III(b) hereof discloses the existence of competition in any line of insurance between State Mutual and any other insurance company identified in any report furnished pursuant to Paragraph III(b)(1), the respondent shall prevent the service as director or the nomination or election as director of any person who remains as a director or nominee for director of that insurance company, provided that the respondent shall be allowed a reasonable period of time from the date of such disclosure within which so to prevent such service, nomination or election by taking such steps as are legally available to it to comply with this provision.

(d) In the event that any director or nominee for director of the respondent fails or refuses to provide in good faith the report required by Paragraph III(b)(1) hereof, the Respondent shall prevent such person from remaining as a director or nominee for director of the respondent, provided that the respondent shall be allowed a reasonable period of time from the date of such failure or refusal

## INTERLOCUTORY ORDER

within which so to prevent such person from so remaining by taking such steps as are legally available to it to comply with this provision.

(e) The respondent's report to the Commission, which is to be made on an annual basis as described in Paragraph III(a) hereof, shall contain the written reports of the individual directors and nominees for director required by Paragraph III(b)(1) hereof and a copy of the respondent's written request to such directors and nominees for director and shall set forth the manner and form in which the respondent has complied with this order.

## IV

*It is further ordered,* That the provisions of Paragraph III hereof shall not apply where the corporation referred to is included in the definition of State Mutual above or is State Mutual's (1) parent, (2) sister, or (3) subsidiary.

## INTERLOCUTORY ORDER

92 F.T.C.

## IN THE MATTER OF

## CENTURY 21 COMMODORE PLAZA, INC., ET AL.

*Docket 9088. Interlocutory Order, Sept. 21, 1978*

ORDER DENYING AS MOOT RESPONDENTS' MOTIONS TO  
COMPEL PRODUCTION OF DOCUMENTS SUBMITTED TO THE  
COMMISSION ON PROPOSED INJUNCTION AND FOR DISCOVERY OF  
ALL MEMORANDA, DOCUMENTS, COMMUNICATIONS OR  
CONTACTS WITH THE COMMISSION REGARDING PROPOSED  
INJUNCTION

Administrative Law Judge Lewis F. Parker has certified to the Commission respondents' motions to compel production of documents submitted to the Commission on an injunction proposed by complaint counsel, and for discovery of all memoranda, documents, communications or contacts with the Commission regarding the proposed injunction. The administrative law judge has recommended that all *ex parte* communications regarding the merits of this case which staff may have made to the Commission with respect to the proposed injunction be released.

The matter is moot. By minute of July 31, 1978, the Commission directed that all such *ex parte* communications from the staff, which contain statements of fact and mixed statements of fact and law which appear to relate to facts in issue, be placed on the public record. By reason of a clerical oversight, this was not done; however, the Commission has been informed that the pertinent materials have since been placed on the public record, pursuant to its July 31, 1978 directive. This procedure fully conforms to Rules of Practice Section 4.7(f), which governs communications, like these, that are *not* prohibited by Section 4.7(b). Accordingly, inasmuch as the Commission is unaware of any further *ex parte* communications on this subject, either written or oral,

*It is ordered,* That respondents' motions be, and hereby are, denied as moot.

IN THE MATTER OF  
INTERCO INCORPORATED, ET AL.

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

*Docket C-2929. Complaint, Sept. 26, 1978 — Decision, Sept. 26, 1978*

This consent order, among other things, requires a St. Louis, Mo. distributor of footwear, wearing apparel and accessories and its subsidiaries to cease suggesting resale prices for their products; maintaining price fixing agreements; compelling price adherence and exclusive dealings through coercion, and penalizing recalcitrant dealers. The firms are also required to reinstate terminated resellers; and maintain relevant records for a five-year period.

*Appearances*

For the Commission: *Elliot Feinberg, Richard Gately, Judith K. Braun, Paul Eyre and Carole I. Danielson.*

For the respondents: *Ronald L. Aylward, Ephraim Jacobs and E.C. Heininger, St. Louis, Mo.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Interco Incorporated, Londontown Corporation, and Queen Casuals, Inc., corporations, hereinafter sometimes referred to as respondents, have violated the provisions of Section 5(a)(1) of the Federal Trade Commission Act, and Sections 2(d), 2(e) and 3 of the Clayton Act, and that a proceeding by it in respect thereof is in the public interest, issues this complaint stating its charges as follows:

RESPONDENTS

PARAGRAPH 1. Respondent Interco Incorporated is a corporation organized, existing, and doing business under the laws of the State of Delaware, with its executive offices located at Ten Broadway, St. Louis, Missouri.

Respondent Londontown Corporation is a corporation organized, existing, and doing business under the laws of the State of Delaware, with its principal place of business located at Londontown Boulevard, Eldersburg, Maryland.

Respondent Queen Casuals, Inc. is a corporation organized, existing, and doing business under the laws of the State of Delaware, with its principal place of business located at 10175 Northeast Ave., Philadelphia, Pennsylvania.

PAR. 2. Interco Incorporated is engaged, directly or through its

subsidiaries, in the manufacture, sale, and distribution of various consumer products. Among said products are footwear and wearing apparel bearing trademarks, brands, and names owned by Interco Incorporated, including, but not limited to, "Florsheim" and "Thayer McNeil" footwear, and "London Fog," "Clipper Mist," "Queen Casuals," "Devon" and "College-Town" wearing apparel.

Florsheim Shoe Company and International Shoe Company are operated as divisions of Interco Incorporated. By and through these divisions Interco Incorporated manufactures, distributes, and sells men's, women's and children's footwear.

Interco Incorporated is a substantial nationwide seller of medium-to-high priced dress and casual leather footwear in the United States. Interco Incorporated distributes its footwear products through numerous company-owned outlets as well as through independent retailers.

College-Town and Devon are operated as divisions of Interco Incorporated. By and through these divisions Interco Incorporated manufactures, distributes, and sells wearing apparel.

Londontown Corporation and Queen Casuals, Inc. are wholly-owned subsidiaries of Interco Incorporated. By and through these subsidiaries Interco Incorporated manufactures, distributes, and sells wearing apparel.

In 1976, Interco Incorporated had net sales in excess of \$1,000,000,000. Sales of footwear and apparel constituted more than 78 percent of earnings in 1976.

#### COMMERCE

PAR. 3. Respondents are engaged in commerce, as "commerce" is defined in Section 1 of the Clayton Act, and are engaged in or their business affects commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

#### DEFINITIONS

PAR. 4. For the purpose of this complaint, the following definitions shall apply:

(a) "*Dealer*" — any person, partnership, firm, or corporation which engages in the retail sale of footwear and wearing apparel, except a company-owned store.

(b) "*Company-owned store*" — any retail outlet or lease department owned or operated by any of the respondents.

(c) "*Sale period*" — any time during which company-owned stores offer to sell products at prices lower than those in effect during the

usual and ordinary course of business; or, any suggested, authorized, or customary time for selling or advertising footwear or apparel at prices lower than suggested, established, or customary resale prices.

#### COMPETITION

PAR. 5. Except to the extent that competition has been restrained by reasons of the practices hereinafter alleged, respondents are in competition with other persons, partnerships, or corporations engaged in the manufacturing, offering for sale, sale, or distribution of various products, including but not limited to footwear and wearing apparel.

#### COUNT I

PAR. 6. The allegations of Paragraphs 1 through 5 are incorporated herein by reference.

PAR. 7. Respondents are engaged and have engaged in the following acts or practices, some of which individually constitute unlawful acts or practices:

(a) Entering into combinations, agreements, or understandings with dealers or prospective dealers to adhere to certain resale prices.

(b) Disseminating price lists and supplements thereto containing suggested resale prices or resale prices in effect at company-owned stores, or otherwise informing dealers of suggested, established, or customary resale prices.

(c) Informing dealers or prospective dealers, by direct or indirect means, that respondents expect or desire such dealers to adhere to certain resale prices.

(d) Entering into combinations, agreements, or understandings with dealers or prospective dealers to adhere to certain sale periods.

(e) Disseminating information regarding sale periods, including the dates of such periods.

(f) Informing dealers or prospective dealers, by direct or indirect means, that respondents expect or desire such dealers to adhere to sale periods.

(g) Withholding allowances or other benefits from dealers who promote respondents' products at prices deviating from suggested, established, or customary resale prices or from prices in effect at company-owned stores.

(h) Identifying dealers who:

(1) Offer for sale or sell respondents' products at prices or terms deviating from established, suggested, or customary resale prices or from prices or terms in effect at company-owned stores; or

(2) Advertise respondents' products at prices or terms deviating from established, suggested or customary resale prices or from prices or terms in effect at company-owned stores; or

(3) Advertise closeout, promotional, clearance or irregular products as having been manufactured by respondents.

(i) Contacting dealers who engage in any of the activities referred to in (h)(1) through (3).

(j) Urging, inducing, persuading, compelling, or coercing dealers to cease engaging in any of the activities referred to in (h)(1) through (3).

(k) Threatening to terminate or terminating certain dealers who engage in any of the activities referred to in (h)(1) through (3).

(l) Granting rebates, credits, benefits, or allowances to dealers who sell respondents' products at suggested, established, or customary resale prices.

(m) Disseminating or assisting in the dissemination of resale price information between or among competing dealers.

(n) Refusing to sell to any existing dealer who will not adhere to certain resale prices or sale periods.

PAR. 8. The capacity, tendency, or effect of the acts and practices of respondents alleged in Count I is, or may be, to:

(a) Maintain, control or establish the prices at which respondents' products are sold; or

(b) Lessen, eliminate, frustrate, reduce, or hinder competition in the sale and distribution of respondents' products; or

(c) Deprive consumers of the benefits of free and open competition.

Therefore, the acts and practices alleged in Count I constitute unfair methods of competition or unfair acts or practices in violation of Section 5 of the Federal Trade Commission Act.

#### COUNT II

PAR. 9. The allegations of Paragraphs 1 through 5 are incorporated herein by reference.

PAR. 10. Interco Incorporated has sold or contracted for the sale of footwear products to certain dealers on the condition, agreement, or understanding that such dealers shall not purchase the products of one or more competitors of Interco Incorporated.

PAR. 11. Interco Incorporated suggests, recommends, advises, persuades, or induces dealers to refrain from selling the footwear products of one or more competitors of Interco Incorporated.

PAR. 12. The capacity, tendency, and effect of the acts and practices of Interco Incorporated alleged in Count II is, or may be, to:

(a) Substantially lessen, hinder, restrain, or suppress competition

in the sale of medium-to-high priced dress or casual leather footwear; or

(b) Exclude or tend to exclude, competitors of Interco Incorporated from selling footwear to a substantial number of dealers.

PAR. 13. Therefore, the acts and practices alleged in Count II violate Section 3 of the Clayton Act and constitute unfair methods of competition or unfair acts or practices in violation of Section 5 of the Federal Trade Commission Act.

### COUNT III

PAR. 14. The allegations of Paragraphs 1 through 5 are incorporated herein by reference.

PAR. 15. Interco Incorporated has paid or contracted for the payment of money, goods, or other things of value to or for the benefit of some of its customers as compensation or in consideration for services or facilities furnished or agreed to be furnished by or through such customers in connection with the processing, handling, sale, or offering for sale of its products and Interco Incorporated has not made such payments available on proportionally equal terms to all customers competing with the customers so favored in the sale and distribution of its footwear products.

For example, Interco Incorporated is now granting and has granted advertising allowances to some of its dealers in connection with the opening of additional retail outlets or special promotional activities such as anniversary sales. Said allowances are not and were not made available on proportionally equal terms to all other dealers competing with the dealers so favored in the sale and distribution of its footwear products.

PAR. 16. Interco Incorporated has discriminated in favor of some of its purchasers against other competing purchasers of its products bought for resale by contracting to furnish or furnishing or by contributing to the furnishing of services and facilities connected with the processing, handling, sale, or offering for sale of such products so purchased upon terms or conditions not accorded to all competing footwear purchasers on proportionally equal terms.

For example, Interco Incorporated has provided to some dealers the opportunity to purchase closeout merchandise or to return unsold product inventory.

PAR. 17. Therefore, the acts and practices alleged in Count III violate Sections 2(d) and 2(e) of the Clayton Act and constitute unfair methods of competition or unfair acts or practices 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 Cleveland Regional Office and 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 Clayton Act; and

The respondents, their attorneys, 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 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 sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Interco Incorporated is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its executive offices located at Ten Broadway, St. Louis, Missouri.

Respondent Londontown Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal place of business located at Londontown Boulevard, Eldersburg, Maryland.

Respondent Queen Casuals, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal place of business located at 10175 Northeast Ave., Philadelphia, Pennsylvania.

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

## ORDER

For purposes of this order, the following definitions shall apply:

"Reseller" is defined as any person, partnership, firm or corporation which purchases any product from any respondent or any person, partnership, firm or corporation owned or operated by any respondent. "Reseller" shall not include any retail outlet or lease department owned or operated by any respondent.

"Prospective reseller" is defined as any person, partnership, firm or corporation which seeks to purchase any product from a respondent or any person, partnership, firm or corporation owned or operated by any respondent. "Prospective reseller" shall not include any retail outlet or lease department owned or operated by any respondent.

"Resale price" is defined as any price, price floor, price ceiling, price range, or any mark-up, formula or margin of profit used by any reseller for pricing any product. Such term includes but is not limited to any suggested, established or customary resale price as well as the retail price in effect at any retail outlet or lease department owned or operated by any respondent.

"Sale period" is defined as any time during which any retail outlet or lease department owned or operated by any respondent offers to sell any product at resale prices lower than those in effect during the usual and ordinary course of business; or any suggested, authorized or customary time for selling or advertising any product at prices lower than suggested, established or customary resale prices.

"Product" is defined as any footwear, apparel, or apparel accessories including but not limited to handbags, belts, gloves, scarves, hats and jewelry.

## I

*It is ordered,* That respondents Interco Incorporated, Londontown Corporation and Queen Casuals, Inc., corporations, their successors and assigns, and respondents' officers, agents, representatives and employees, directly or indirectly, or through any corporation, subsidiary, division or other device, in connection with the manufacture, offering for sale, sale, distribution or advertising of any product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from:

1. Establishing, exacting assurances to comply with, continuing or enforcing any combination, agreement, understanding or arrangement to fix, establish, control, maintain or enforce, directly or

indirectly, any resale price at which any product is to be sold or advertised by any reseller or prospective reseller.

2. Requiring or coercing any reseller or prospective reseller to establish, maintain, issue, adopt or adhere to any resale price or sale period.

3. For a period of three (3) years from the date of service of this order, orally suggesting or recommending any resale price or sale period to any reseller or prospective reseller. The advertising to consumers of actual resale prices by any retail outlet or lease department owned or operated by any respondent shall not be deemed a violation of this paragraph.

4. For a period of three (3) years from the date of service of this order, communicating in writing any resale price or sale period to any reseller or prospective reseller. The advertising to consumers of actual resale prices by any retail outlet or lease department owned or operated by any respondent shall not be deemed a violation of this paragraph. After this three (3) year period, it shall be clearly stated on the pages of any list, book, advertising, promotional material or other document where any suggested resale price or sale period appears:

THE [RESALE PRICES OR SALE PERIODS] QUOTED HEREIN ARE SUGGESTED ONLY. YOU ARE FREE TO DETERMINE YOUR OWN [RESALE PRICES OR SALE PERIODS].

A respondent shall not, however, suggest resale prices on any tag, ticket or other marking affixed or to be affixed to any product shipped to a reseller.

5. Requiring or soliciting, directly or indirectly, any reseller, prospective reseller, person or firm to report the identity of any reseller who deviates from any resale price or sale period.

6. Communicating with any reseller or prospective reseller concerning its deviation or alleged deviation from any resale price or sale period.

7. Suggesting or requiring that any reseller or prospective reseller refrain from or discontinue advertising any product at a certain resale price.

8. Representing that any action may or will be taken against any reseller if it deviates from any resale price or sale period.

9. Threatening to withhold or withholding advertising allowances or any other assistance, payment, service or consideration from any reseller, or limiting or restricting the eligibility of any reseller to receive such benefits because said reseller advertises or sells at a certain resale price.

10. Making any payment or granting any other consideration or benefit to a reseller because another reseller has sold at a certain resale price.

11. Hindering or precluding the lawful use by a reseller of any brand name of any respondent in conjunction with the sale or advertising of any product at any price.

12. Terminating, suspending, delaying shipments to or taking or threatening any action against any reseller because the reseller has, or was alleged to have, sold or advertised any product at a certain resale price, or because the reseller may engage in any such activity in the future. Provided that each of the respondents retains the right to terminate any reseller for lawful business reasons not inconsistent with this paragraph or any other paragraph of this order.

13. Attempting to secure any promise or assurance from any reseller or prospective reseller regarding the price at which such reseller or prospective reseller will or may advertise or sell any product; or requesting or requiring any reseller or prospective reseller to obtain approval from any respondent for any price at which such reseller or prospective reseller may or will advertise or sell any product.

## II

*It is further ordered,* That respondents, their successors and assigns, and respondents' officers, agents, representatives and employees, directly or indirectly, or through any corporation, subsidiary, division or other device in connection with the manufacture, offering for sale, sale, distribution or advertising of any footwear product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act and the Clayton Act, shall forthwith cease and desist from:

1. Entering into, maintaining, preserving or enforcing by refusal to sell, termination or threat thereof or otherwise, any agreement, understanding or arrangement which precludes or prevents a reseller or prospective reseller from stocking or selling a footwear product supplied by anyone other than a respondent or from independently determining the volume of a footwear product to be purchased from such other suppliers.

2. Requiring, coercing or inducing any reseller to cancel orders for or not purchase any footwear product supplied by anyone other than a respondent.

3. Making or contracting to make to or for the benefit of any customer, any payment of anything of value as compensation or in consideration for any services or facilities furnished by or through

