on all parties an answer to the order of suspension. No objections or affirmative defenses not plainly raised in the answer may be raised subsequently in the proceeding, except if based on grounds of newly discovered evidence or supervening events. Late filing of an answer shall be permitted only for good cause shown.

(b) *Failure to file an answer.* In case of the carrier's failure to file and serve an answer to the order within the time and in the manner prescribed, the right to all further procedural steps before final decision, including hearing, briefs, and recommended and tentative decisions, shall be deemed waived, and the Board will proceed immediately to disposition of the case.

§ 302.1014 Motions.

(a) *Motions for termination of suspension and/or proceeding.* (1) The supplemental air carrier may at any time file and serve on all parties to the proceeding, a motion addressed to the Board asking that the suspension be lifted, on the ground (i) that suspension, pending completion of the proceeding, is not required in the interest of the rights, welfare or safety of the public; or (ii) that the carrier has come into compliance with the provision or provisions with which it had failed to comply. Such motions may be combined with a motion to terminate the proceeding. Such motions shall be made in lieu of petitions for reconsideration of the Board's initial order, or of motions to dismiss.

(2) Motions made pursuant to subparagraph (1) of this paragraph will be submitted to the Board for determination. The Board may grant motions for termination of suspension in proper cases without waiting for expiration of the time for answers but parties may submit informal written or telegraphic statements of position on such motions which will be considered if received prior to Board action. Such communications need not be served separately but shall be copied in full in a timely answer filed and served pursuant to the provisions of this part.

(b) *Motions directed to pleadings.* No motion for more definite statement shall be made but the substance thereof may be stated in the answer. The examiner may permit or require a more definite statement or other amendment to any pleading at the hearing upon just and reasonable terms.

(c) *Motions for extension of time.* Substantial extensions of procedural dates shall be granted only when required in the interest of justice, unless the respondent air carrier stipulates that it will refrain from operating the suspended service until the Board's adjudication on the merits of the proceeding becomes final even though the Board has exhausted its emergency suspension power. The filing of motions for extension shall not operate to excuse failure of timely compliance with any procedural requirement.

(d) *Other motions.* The provisions of § 302.18 shall govern the above mentioned motions in respects not provided for in this section, and shall govern any other motions, except that answers to written motions shall be filed and served within 5 days of service of such motions.

§ 302.1015 Additional suspension.

Pending the completion of proceedings hereunder, the Board, upon motion or its own initiative, may further extend the period of suspension of the supplemental carrier's operating authority for an additional period or periods aggregating not more than 60 days.

§ 302.1016 Accelerated hearing.

The examiner shall set the date of hearing not later than 15 days after the issuance of the Board's suspension order. He may postpone the date of the hearing, or grant continuations of the hearing, only to the extent necessary in the interest of justice. The examiner shall urgently expedite the proceeding and shall fix all procedural dates on the basis of maximum acceleration consistent with justice. Proposed findings and conclusions and supporting reasons shall be stated orally on the record. The delegation of § 302.27(a) shall not be applicable and the examiner shall, upon termination of the hearing, make his initial decision orally on the record. Requests for a written initial decision may be granted on the same condition as substantial extensions of procedural dates (§ 302.1014(c)).

§ 302.1017 Final decision.

The parties may appeal from the initial decision by filing with the Board and serving upon all other parties a notice of appeal within two days after the rendering of the initial decision if it is made orally, or the service of a written initial decision, as the case may be. No exceptions shall be filed but within 10 days of the notice of appeal each party may file one brief (§ 302.31(c)) with the Board. The Board will give three days' notice of oral argument, where granted. If no notice of appeal is filed, or if no brief is filed by the party or parties having filed a notice of appeal, within the times herein provided, the initial decision shall without further proceedings become the final decision of the Board five days after expiration of the time for filing notice of appeal or brief, as the case may be, unless the Board has issued an order to review upon its own initiative.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 63-449; Filed, Jan. 15, 1963; 8:49 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket C-280]

PART 13—PROHIBITED TRADE PRACTICES

Marvin Polk et al.

Subpart—Concealing, obliterating or removing law required and informative marking: § 13.512 *Fur products tags or identification.* Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely:* § 13.1108–45 *Fur Products Labeling Act.* Subpart—Misbranding or mislabeling: § 13.1212 *Formal regulatory and statutory requirements:* § 13.1212–30 *Fur Products Labeling Act.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition:* § 13.1845–30 *Fur Products Labeling Act;* § 13.1865 *Manufacture or preparation:* § 13.1865–40 *Fur Products Labeling Act;* § 13.1880 *Old, used, or reclaimed as unused or new:* § 13.1880–40 *Fur Products Labeling Act;* § 13.1900 *Source or origin:* § 13.1900–40 *Fur Products Labeling Act:* § 13.1900–40(a) *Maker or seller;* § 13.1900–40(b) *Place.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Marvin Polk trading as Parker Fur Company, etc., et al., Chicago, Ill., Docket C-280, Dec. 18, 1962]

In the Matter of Marvin Polk, an Individual Trading as Parker Fur Company and as Re-Sale Fur Salon, and Richard Polk, Individually and as a Salesman of Parker Fur Company and Re-Sale Fur Salon

Consent order requiring Chicago furriers to cease violating the Fur Products Labeling Act by failing to show on labels and invoices the true animal name of furs and to disclose when furs were artificially colored; to show the name of the manufacturer, etc., on labels, and the country of origin of imported furs on invoices; to disclose on invoices and in newspaper advertising when fur products were "secondhand"; by substituting nonconforming labels for those affixed by manufacturers or distributors; and by failing in other respects to conform to labeling and invoicing requirements.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Marvin Polk, an individual trading as Parker Fur Company, Re-Sale Fur Salon or under any other trade name, and Richard Polk, individually and as a salesman of Parker Fur Company or Re-Sale Fur Salon, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the sale, advertising or offering for sale, in commerce, or the transportation or distribution in commerce of any fur product; or in connection with the sale, manufacture for sale, advertising, offering for sale, transportation or distribution, of any fur product which has been made in whole or in part of fur which has been shipped and received in commerce as "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Misbranding fur products by:

A. Failing to affix labels to fur products showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of section 4(2) of the Fur Products Labeling Act.

B. Setting forth information required under section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in abbreviated form.

C. Affixing labels to fur products that do not comply with the minimum size requirements of one and three-quarter inches by two and three-quarter inches.

D. Setting forth information required under section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in handwriting.

E. Failing to set forth on labels the item number or mark assigned to a fur product.

2. Falsely or deceptively invoicing fur products by:

A. Failing to furnish invoices to purchasers of fur products showing all the information required to be disclosed by each of the subsections of section 5(b)(1) of the Fur Products Labeling Act.

B. Setting forth information required under section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in abbreviated form.

C. Failing to disclose that fur products are "secondhand" when in fact such fur products have been worn or used by ultimate consumers.

D. Failing to set forth on invoices the item number or mark assigned to a fur product.

E. Using coined, fictitious or non-existent animal names to describe fur products.

3. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement or notice which is intended to aid, promote or assist, directly or indirectly, in the sale, or offering for sale of fur products and which:

A. Fails to set forth in words and figures plainly legible all the information required to be disclosed by each of the subsections of section 5(a) of the Fur Products Labeling Act.

B. Fails to describe fur products as "secondhand" when such fur products have been previously worn by ultimate consumers.

It is further ordered, That respondents Marvin Polk, an individual trading as Parker Fur Company, Re-Sale Fur Salon, or under any other trade name, and Richard Polk, individually and as a salesman of Parker Fur Company or Re-Sale Fur Salon, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the selling, offering for sale, or processing fur products which have been shipped or received in commerce, do forthwith cease and desist from misbranding fur products by substituting for the labels affixed to such fur products pursuant to section 4 of the Fur Products Labeling Act labels which do not conform to the requirements of the aforesaid Act and Rules and Regulations promulgated thereunder.

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.

Issued: December 18, 1962.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 63-418; Filed, Jan. 15, 1963; 8:45 a.m.]

[Docket C-279]

PART 13—PROHIBITED TRADE PRACTICES

Roy Weir et al.

Subpart—Discriminating in price under Sec. 2, Clayton Act—payment or acceptance of commission, brokerage or other compensation under 2(c): § 13.820 *Direct buyers.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 2, 49 Stat. 1526; 15 U.S.C. 13) [Cease and desist order, Roy Weir et al. doing business as Valley Fruit & Vegetable Co., Pharr, Tex., Docket C-279, Dec. 18, 1962]

In the Matter of Roy Weir, Rudolph Ogden, Dan Seitz, and Richard Eubank, Individually and as Co-partners Doing Business as Valley Fruit & Vegetable Co.

Consent order requiring packers of citrus fruit and produce in Pharr, Tex., to cease violating section 2(c) of the Clayton Act by paying commissions or brokerage to a large number of direct buyers purchasing for their own account for resale.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That the respondents Roy Weir, Rudolph Ogden, Dan Seitz, and Richard Eubank, individually and as co-partners doing business as Valley Fruit & Vegetable Co., and their agents, representatives and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or produce, in commerce, as "commerce" is defined in the Clayton Act, as amended, do forthwith cease and desist from:

Paying, granting, or allowing, directly or indirectly, to any buyer, or to anyone acting for or in behalf of, or who is subject to the direct or indirect control of such buyer, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any sale of citrus fruit or produce to such buyer for his own account.

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.

Issued: December 18, 1962.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 63-419; Filed, Jan. 15, 1963; 8:45 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release 40-3605]

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

Exemption of Certain Transactions of Insurance Companies

On November 8, 1962, the Securities and Exchange Commission published notice in the FEDERAL REGISTER (27 F.R. 10910) that it had under consideration the adoption of a Rule 3c-3 (§ 270.3c-3) exempting from the provisions of the Investment Company Act of 1940 transactions of insurance companies with respect to certain group annuity contracts which provide for the administration of funds held by an insurance company in a separate account established and maintained pursuant to legislation which permits the income, gains and losses whether or not realized, from assets allocated to such account to be credited to or charged against such account without regard to other income, gains, or losses, of the insurance company.

All interested persons were invited to comment upon the proposal. Comments were received from various persons who generally favored immediate adoption of the rule, with several suggestions that the scope of the rule be expanded. The Commission has decided to defer consideration of such expansion and to adopt the rule as originally proposed with only minor changes in the wording thereof.

The reference to "agreement" in the rule as submitted for comment has been deleted since only a "plan" can meet the requirements of the qualification sections of the Internal Revenue Code. For purposes of clarification, the reference to section 403(a)(1) of the Internal Revenue Code has been changed to refer to plans which meet the requirements for deduction of the employer's contributions under section 404(a)(2) of said Code whether or not the employer deducts the amounts paid for the contract under such section. In addition, the paragraphing of the rule has been slightly altered.

Accordingly, the proposed rule as so published is adopted, effective forthwith, subject to the changes set forth below:

I. In the caption of the section, the words "which provide" are substituted for the word "providing".

II. Subparagraph (2) of paragraph (a) is revised.

III. The sentence after subparagraph (4) beginning with the words "Separate account" is changed to a paragraph and is numbered as paragraph (b).

IV. A new paragraph (c) is inserted after paragraph (b).

V. Proposed paragraph (b) is renumbered as paragraph (d).