

IN THE MATTER OF
MARTIN GOLDSTEIN, ET AL.
DOING BUSINESS AS THE NAGOLD CO.

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

Docket 7312. Complaint, Nov. 19, 1958—Decision, Mar. 26, 1959

Consent order requiring a New York City firm of factory agents for manufacturers of cutlery, luggage, kitchenware, jewelry, and other merchandise, to cease representing falsely that fictitious and exaggerated amounts appearing in their advertising and promotional literature and attached to their said products were the usual retail selling prices.

Mr. Terral A. Jordan for the Commission.

Shemitz, Craig & Fischman, by *Mr. Sydney U. Craig*, of New York, N.Y., for respondents.

INITIAL DECISION BY WALTER R. JOHNSON, HEARING EXAMINER

In the complaint dated November 19, 1958, the respondents are charged with violating the provisions of the Federal Trade Commission Act.

On February 3, 1959, the respondents and their attorney entered into an agreement with counsel in support of the complaint for a consent order.

The hearing examiner finds that the content of the agreement meets all of the requirements of Section 3.25(b) of the Rules of the Commission.

The hearing examiner being of the opinion that the agreement and the proposed order provide an appropriate basis for disposition of this proceeding as to all of the parties, the agreement is hereby accepted and it is ordered that the agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission. The following jurisdictional findings are made and the following order issued.

1. Respondents Martin Goldstein and Morris Nagler are individuals trading and doing business as a copartnership under the name of The Nagold Co., with their office and principal place of business located at 1150 Broadway, New York, N.Y.

2. The Federal Trade Commission has jurisdiction of the sub-

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ject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents Martin Goldstein and Morris Nagler, as individuals or as copartners trading and doing business as The Nagold Co., or under any other trade name, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of cutlery, luggage, kitchenware, jewelry or any other articles of merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing directly or indirectly that any price is the retail selling price of their products which is in excess of the price at which their products are regularly and customarily sold at retail.

2. Providing retailers or distributors of their products with preticketed articles of merchandise or price lists or advertising or promotional material through or by which said retailers or distributors are enabled to mislead and deceive the purchasing public with respect to the matters set out in paragraph 1 herein.

DECISION OF THE COMMISSION AND ORDER TO FILE
REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 26th day of March 1959, become the decision of the Commission; and, accordingly:

It is 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 the order to cease and desist.

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IN THE MATTER OF
MORTON ETELSON

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

Docket 7322. Complaint, Dec. 2, 1958—Decision, Mar. 26, 1959

Consent order requiring a furrier in New York City to cease violating the Fur Products Labeling Act by failing to comply with the labeling and invoicing requirements, and advertising representations that certain fur products had a "wholesale market value" of a stated price without maintaining adequate records as a basis for such claims.

Mr. Alvin D. Edelson for the Commission.

Mr. Morton Etelson, pro se.

INITIAL DECISION BY WALTER R. JOHNSON, HEARING EXAMINER

In the complaint dated December 2, 1958, the respondent is charged with violating the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act and the Rules and Regulations made pursuant thereto.

On January 27, 1959, the respondent entered into an agreement with counsel in support of the complaint for a consent order.

By the terms of the agreement, respondent admits all the jurisdictional facts alleged in the complaint and agrees that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. By such agreement respondent waives any further procedural steps before the hearing examiner and the Commission, the making of findings of fact or conclusions of law, and all the rights he may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement. It is also agreed that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement, that the agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission, that the agreement is for settlement purposes only and does not constitute an admission of respondent that he has violated the law as alleged in the complaint, that the order to cease and desist may be entered in this proceeding of the Commission without further notice to respondent and when so entered it shall have the same force and effect as

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if entered after a full hearing, that it may be altered, modified or set aside in the manner provided for other orders, and that the complaint may be used in construing the terms of the order.

The hearing examiner being of the opinion that the agreement and the proposed order provide an appropriate basis for disposition of this proceeding as to all of the parties, the agreement is hereby accepted and it is ordered that the agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission. The following jurisdictional findings are made and the following order issued.

1. Respondent Morton Etelson is an individual trading as Morton Etelson with his place of business located at 333 Seventh Avenue, New York, N.Y.

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

ORDER

It is ordered, That Morton Etelson, an individual, trading as Morton Etelson, or under any other name, and his agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising, offering for sale, transportation or distribution, of fur products in commerce, or in connection with the sale, advertising, offering for sale, transportation or distribution of fur products which are 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:

A. Misbranding fur products by:

1. Failing to affix labels to fur products showing:

(a) The name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations;

(b) That the fur products contain or are composed of used fur, when such is the fact;

(c) That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;

(d) That the fur product is composed in whole or in substan-

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tial part, of paws, tails, bellies, or waste fur, when such is the fact;

(e) The name or other identification issued and registered by the Commission, of one or more persons who manufactured such fur product for introduction into commerce, introduced it into commerce, sold it in commerce, advertised or offered it for sale in commerce, or transported or distributed it in commerce;

(f) The name of the country of origin of any imported furs used in the fur product.

B. Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices to purchasers of fur products showing:

(a) The name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations;

(b) That the fur product contains or is composed of used fur, when such is the fact;

(c) That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;

(d) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;

(e) The name and address of the person issuing such invoice;

(f) The name of the country of origin of any imported fur contained in the fur product.

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

3. Failing to set forth on invoices the item number or mark assigned to fur products as required under the aforesaid Rules and Regulations.

C. Setting forth pricing claims and representations in advertising unless respondent maintains full and adequate records disclosing the facts upon which such claims and representations are based.

DECISION OF THE COMMISSION AND ORDER TO FILE
REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the

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26th day of March 1959, become the decision of the Commission; and, accordingly:

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

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IN THE MATTER OF
ALLBRIGHT'S, ET AL.

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

Docket 6890. Complaint, Sept. 17, 1957—Decisions, Mar. 27, 1959

Consent orders requiring 33 jobbers of automotive replacement parts and supplies and their corporate buying agent to cease using their combined bargaining power to induce discounts from sellers not made available to their competitors.

COMPLAINT

The Federal Trade Commission having reason to believe that the parties respondent named in the caption hereof and hereinafter more particularly designated and described, since June 19, 1936, have violated and are now violating the provisions of subsection (f), Section 2 of the Clayton Act, as amended by the Robinson-Patman Act, approved June 19, 1936 (U.S.C., Title 15, Section 13), hereby issues its complaint stating its charges with respect thereto as follows:

PARAGRAPH 1. (1) Respondent Allbright's is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with principal office and place of business located at 3889 Eighth Street, Riverside, Calif.

The following respondent individuals are the officers of said respondent corporation:

D. S. Allbright, president and Southwest executive officer.

C. H. Briggs, vice president.

R. J. Hoefflerle, secretary and treasurer.

T. S. Huddleston, assistant secretary.

(2) Respondent Jack R. Doolittle is an individual doing business as Automotive Industrial Distributing Co., with principal office and place of business located at 709 South Queen Street, Honolulu, Hawaii.

(3) Respondent Auto Parts & Machine Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with principal office and place of business located at 3508 Firestone Boulevard, South Gate, Calif.

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The following respondent individuals are the officers of said respondent corporation:

Rodney B. Terzenbach, president and Southwest executive officer.

Theodore Terzenbach, vice president.

E. V. Stretz, secretary and treasurer.

(4) Respondent Clark County Wholesale Mercantile Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nevada, with principal office and place of business located at 505 South Main Street, Las Vegas, Nev.

The following respondent individuals are the officers of said respondent corporation:

F. Lorin Ronnow, president.

E. W. Arnold, vice president.

George M. Roman, secretary and treasurer.

Stanley C. Brower, Southwest executive officer.

(5) Respondent Curtis & Christensen, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with principal office and place of business located at 501 East Anaheim Street, Long Beach, Calif.

The following respondent individuals are the officers of said respondent corporation:

Fred J. Curtis, president and Southwest executive officer.

Mable Curtis, vice president.

H. Kelly, secretary and treasurer.

Ralph Hubert, Southwest executive officer.

(6) Respondent Donald L. Diedrich is an individual doing business as L. N. Diedrich, Inc., with principal office and place of business located at 157 East Main Street, Ventura, Calif.

(7) Respondent Eckdahl Auto Parts Co., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with principal office and place of business located at 220 North Market Street, Inglewood, Calif.

The following respondent individuals are the officers of said respondent corporation:

B. T. Eckdahl, president and treasurer.

A. D. Shaw, vice president.

Fred A. Guffin, secretary and Southwest executive officer.

(8) Respondent Theodore Terzenbach is an individual doing business as Economy Auto Parts & Machine Co., with principal

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office and place of business located at 1731 Firestone Boulevard, Los Angeles, Calif.

(9) Respondents Donald P. Godber, R. S. Hollett, and M. K. Godber are individuals and copartners doing business as G & H Auto Parts, with principal office and place of business located at 2400 West Valley Boulevard, Alhambra, Calif.

(10) Respondent James K. Gardner is an individual doing business as Gardner Automotive Parts, with principal office and place of business located at 490 North Virginia Street, Reno, Nev.

(11) Respondent B. H. Dickey is an individual doing business as General Auto Parts, with principal office and place of business located at 1218 Pine Street, Paso Robles, Calif.

(12) Respondent George W. Graveline is an individual doing business as Graveline Auto Parts, with principal office and place of business located at 9020 Olympic Boulevard, Beverly Hills, Calif.

(13) Respondent Green Motor Parts is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with principal office and place of business located at 145 North K Street, Tulare, Calif.

The following respondent individuals are the officers of said respondent corporation:

E. E. Green, president and Southwest executive officer.

T. E. Hermanson, vice-president, secretary and Southwest executive officer.

(14) Respondent W. E. Hardy is an individual doing business as Hardy Auto Parts, with principal office and place of business located at 417 West Whittier Boulevard, Montebello, Calif.

(15) Respondents R. B. Huston, George Huston and K. A. Greer are individuals and copartners doing business as Hollister Auto Parts, with principal office and place of business located at Fourth & East Street, Hollister, Calif.

Respondent Joseph R. Mulch is Southwest executive officer of Hollister Auto Parts.

(16) Respondent W. W. Kerrigan, Jr., is an individual doing business as Kerrigan Auto Parts, with principal office and place of business located at 516 East Fourth Street, Santa Anna, Calif.

(17) Respondent H. C. Jepson is an individual doing business as Los Gatos Auto Supply, with principal office and place of business located at 122 North Santa Cruz Avenue, Los Gatos, Calif.

(18) Respondents Ernest R. Blome, James G. Blome, Richard Peterson, Floyd Beutler, Dennis Panis and Allen Sticker are in-

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dividuals and copartners doing business as Mel's Auto Supply, with principal office and place of business located at 3200 North San Gabriel Boulevard, South San Gabriel, Calif.

(19) Respondents Carl Pate and William Lehnhoff are copartners doing business as Montgomery Auto Parts, with principal office and place of business located at 198 North Monterey Street, Gilroy, Calif.

(20) Respondent National Parts Co., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with principal office and place of business located at 4385 East Olympic Boulevard, Los Angeles, Calif.

The following respondent individuals are the officers of said respondent corporation:

Henry Mezeri, president.

Emeline Dawson, secretary and treasurer.

Joseph Ochoa, Southwest executive officer.

(21) Respondent H. M. Parker & Son, is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with principal office and place of business located at 230 South Central Avenue, Glendale, Calif.

The following respondent individuals are the officers of said respondent corporation:

Norman B. Parker, president and Southwest executive officer.

A. W. Owen, vice president.

A. J. Filar, treasurer.

George Lipp, secretary.

(22) Respondents John M. Moss, Dudley Laughton, Roland Imwalle and Lucille Leeper are individuals and copartners doing business as Peninsula Auto Parts Co., with principal office and place of business located at 336 Washington Street, Monterey, Calif.

(23) Respondent Pioneer Mercantile Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with principal office and place of business located at 1111 Twenty First Street, Bakersfield, Calif.

The following respondent individuals are the officers of said respondent corporation:

Frank G. Schamblin, president and Southwest executive officer.

A. E. Randour, vice president.

L. A. Schamblin, secretary and treasurer.

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(24) Respondent Pomona Motor Parts, is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with principal office and place of business located at 363 West Third Street, Pomona, Calif.

The following respondent individuals are the officers of said respondent corporation:

Joseph K. Wilkinson, president and Southwest executive officer.

Helen Bates, secretary and treasurer.

(25) Respondent Psenner-Pauff, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with principal office and place of business located at 112 East Maple Avenue, Glendale, Calif.

The following respondent individuals are the officers of said respondent corporation:

H. E. Psenner, president.

Carolyn Psenner, vice president.

A. N. Pauff, secretary and Southwest executive officer.

(26) Respondent Santa Cruz Auto Parts, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with principal office and place of business located at 703 Front Street, Santa Cruz, Calif.

The following respondent individuals are the officers of said respondent corporation:

E. J. Ayer, president and Southwest executive officer.

Paul Schaeffer, vice president.

Charles Quinn, secretary and treasurer.

(27) Respondent Standard Auto Parts, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with principal office and place of business located at 1085 Higuera Street, San Luis Obispo, Calif.

Respondent Frank D. Muzio the controlling stockholder and officer of said respondent corporation is also a Southwest executive officer.

(28) Respondent Stedman Auto Parts, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with principal office and place of business located at 3205 West 54th Street, Los Angeles, Calif.

The following respondent individuals are the officers of said respondent corporation:

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P. E. Stedman, president.

R. E. Stedman, secretary and Southwest executive officer.

(29) Respondent Valley Auto Supply Co., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with principal office and place of business located at 633-641 State Street, El Centro, Calif.

The following respondent individuals are the officers of said respondent corporation:

W. A. Tondro, president.

Ella Belle Tondro, vice president.

Lyman W. Tondro, secretary-treasurer and Southwest executive officer.

(30) Respondent Valley Auto Supply of San Bernardino is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with principal office and place of business located at 441 Fifth Street, San Bernardino, Calif.

The following respondent individuals are the officers of said respondent corporation:

John Wilson, president and Southwest executive officer.

Paul Clammer, vice president.

Arthur Lindholm, secretary and treasurer.

(31) Respondent Frank P. Verbeck is an individual doing business as Verbeck's Automotive Sales, with principal office and place of business located at 80 North Lake Avenue, Pasadena, Calif.

(32) Respondent Walter's Auto Parts, is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with principal office and place of business located at 515 South Greenleaf Avenue, Whittier, Calif.

The following respondent individuals are the officers of said respondent corporation:

Joseph L. Walter, president and Southwest executive officer.

R. W. Cottle, vice president.

R. Connell, secretary and treasurer.

(33) Respondents James Sheerin, William Pointer and Raymond Nelson are individuals and copartners doing business as West Covina Auto Supply, with principal office and place of business located at 1038 East Garvey Boulevard, West Covina, Calif.

Respondent Allen Sheerin is Southwest executive officer of West Covina Auto Supply.

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(34) Respondent Southwest Automotive Distributors, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with principal office and place of business located at 736 East Washington Boulevard, Los Angeles, Calif.

The following respondent individuals are the officers of said respondent corporation:

Frank D. Muzio, president.

Lyman W. Tondro, vice president.

Frank P. Verbeck, secretary and treasurer.

L. E. Williams, general manager.

PAR. 2. The respondent corporations, partnerships, and proprietorships set forth in subparagraphs (1) through (33) of paragraph 1, *supra*, are independent business entities principally engaged in the jobbing of automotive replacement parts and supplies. Since June 19, 1936, said jobbers have purchased and now purchase in commerce from sellers, and from sellers engaged in commerce, numerous such parts and supplies for use, consumption or resale within the United States, Hawaii, and the District of Columbia, and in connection with such transactions said jobbers have been and are now in active and substantial competition with other corporations, partnerships, proprietorships also engaged in the purchase for use, consumption or resale of automotive replacement parts and supplies of like grade and quality from the same or competitive sellers. The aforesaid sellers are located in the several States of the United States and the aforesaid buyers and said sellers cause the parts and supplies so purchased, in manner and method and for purposes as aforesaid, to be shipped and transported among and between the several States of the United States from the respective State or States of location of said sellers to the respective State, or Territory or States of location of said buyers.

PAR. 3. Respondent Southwest Automotive Distributors, Inc., at all times mentioned herein has been and is now maintained, managed, controlled and operated by and for the particular jobbers associated together at any given time for the effectuation of the purchasing policies and practices hereinafter described. Certain of the respondent jobbers have been so associated together since the inception of this course of action by the organization

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of said respondent corporation in 1939. All of the respondent jobbers are currently so associated together in the continuation of said course of action by respondent Southwest Automotive Distributors, Inc., and each said respondent jobber following such association, adopted, ratified, approved and began taking part in the purchasing policies and practices hereinafter described.

In practice and effect, respondent Southwest Automotive Distributors, Inc., has been and is now serving as the medium or instrumentality by, through or in conjunction with which said jobbers exert the influence of their combined bargaining power on the competitive commodity sellers hereinbefore described. As a part of their planned common course of action, said jobbers direct the attention of said commodity sellers to the potential purchasing power possessed by them acting in concert and, by reason of such, have demanded on their individual purchases discriminatory prices, discounts, allowances, rebates, terms and conditions of sale not otherwise offered or granted by said commodity sellers in such transactions. Sellers not acceding to such demands are usually replaced as sources of supply for the commodities concerned and such market is closed to them in favor of such sellers as can be and are induced to afford the discriminatory prices, discounts, allowances, rebates, terms and conditions of sale so demanded.

Said planned common course of action usually includes the demand by said jobbers, among other things, that acceding sellers shall consider their several purchases in the aggregate for the purpose of granting thereon quantity discounts, allowances or rebates in accordance with said sellers' established schedules. When, and if, this demand is acceded to by a particular seller, the subsequent purchase transactions between said seller and the individual jobbers have been and are billed to and paid for through the aforesaid organizational device of Southwest Automotive Distributors, Inc. Said organization thus purports to be the commodity purchaser when in truth and in fact it has been and is now serving only as agent for the several individual purchasers aforescribed or as a mere bookkeeping device for facilitating the inducement and receipt by the said purchasers from the said sellers of discriminatory and off-scale merchandise pricing. Said Southwest Automotive Distributors, Inc., has not functioned and

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does not now function as a purchaser for its own account for consumption, use or resale of the commodities concerned.

PAR. 4. Each and all of the respondents aforementioned since June 19, 1936, have adopted, followed, and pursued purchasing policies and practices which were knowingly designed and intended to and did induce from such of the aforesaid commodity sellers as acceded, discriminatory and illegal prices, discounts, allowances, rebates, terms and conditions of sale favorable to said respondent jobbers as aforesaid in the commodity purchase transactions hereinbefore described.

Each and all of the aforementioned respondents in furtherance of the said policies and practices and in connection with the said commodity purchase transactions are and have been utilizing and employing the device of respondent Southwest Automotive Distributors, Inc., to induce and receive by, through or in conjunction therewith, from the aforesaid acceding sellers in said transactions, the aforesaid favorable prices, discounts, allowances, rebates, terms and conditions of sale, which were known or should have been known by said respondents to be discriminatory, illegal and prohibited to said acceding sellers under subsection (a) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act.

Each and all of the aforementioned respondent jobbers during the times aforestated made individual purchases of the said commodities upon which, and upon the total aggregate of which, and otherwise said jobbers knowingly induced and received, through use of the aforesaid device, substantial monetary amounts in discriminatory and favorable prices, discounts, allowances, rebates, terms and conditions of sale from the acceding sellers in the aforesaid purchase transactions. Except under color of such or a similar organizational device, the said favorable discriminatory prices, discounts, rebates, terms and conditions of sale, were to the knowledge of said respondents not available to, offered, or granted by said sellers, or their aforesaid competitors to respondents or respondents' aforesaid competitors, nor received by respondents or respondents' said competitors in connection with the aforesaid or like or similar such purchase transactions of the same or similar such commodities of like grade and quality so purchased for consumption, use or resale.

For example, during 1955, 21 of the respondent jobbers purchased \$52,000 in the aggregate from one acceding seller and

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received an aggregate rebate of \$8,000. On their individual purchase amounts 11 of these jobbers would have received no rebates under this seller's established price and discount schedule, while the remaining 10 jobbers would have received an aggregate rebate of but \$4,530. The 11 jobbers who should have received no rebates from this particular seller actually received an aggregate rebate of \$630 while the other 10 jobbers received an aggregate rebate of \$7,370. Accordingly, these 21 jobber purchasers received an excess aggregate rebate of \$3,470 on their aggregate purchases. In 1954 said respondent jobbers made purchases through Southwest Automotive Distributors, Inc., from 92 acceding sellers in the amount of \$882,573.75. In 1955 such purchases increased to \$1,034,386.51 from 101 suppliers.

Each and all of the aforesaid discriminatory purchase transactions, so negotiated and made, tend to and do establish the acceding sellers therein as preferred sources of supply over competitive sellers not so acceding, for the purchase for consumption, use or resale by said respondent jobbers of the commodities concerned, and to give said jobbers a price advantage over competitive nonfavored buyers as aforesaid in the purchase for consumption, use or resale of the same or similar such commodities of like grade and quality.

PAR. 5. The effect of each and all of the aforesaid discriminations in prices induced by each and all of the respondents aforesaid in each and all of the purchase transactions aforesaid made in the manner and method and for the purpose aforesaid, and received in each and all of said transactions by each and all of the respondents as aforesaid, has been and may be to substantially lessen competition in the lines of commerce in which the aforesaid acceding sellers, said sellers' competitors, said respondent jobbers, and said jobbers' competitors, as aforesaid, are engaged, and to injure, destroy or prevent competition with the said acceding sellers, the said respondent jobbers or with customers of either of them.

PAR. 6. The foregoing alleged acts and practices of said respondents, in knowingly inducing and in knowingly receiving, since June 19, 1936, the aforesaid discriminations in price prohibited by subsection (a), Section 2, of the Clayton Act, as amended by the Robinson-Patman Act, approved June 19, 1936 (U.S.C., Title 15, Section 13), are in violation of subsection (f), Section 2, of said Act.

By *Mr. Earl J. Kolb*, hearing examiner.

Mr. Eldon P. Schrup and *Mr. Robert E. Vaughan* for the Commission.

Mr. James W. Cassedy, of Washington, D.C., for all respondents except Pomona Motor Parts, Joseph K. Wilkinson, and Helen Bates.

INITIAL DECISION AS TO ALL RESPONDENTS EXCEPT
POMONA MOTOR PARTS, JOSEPH K. WILKINSON,
AND HELEN BATES

The complaint in this proceeding issued September 17, 1957, charges the respondents Allbright's, a corporation; Jack R. Doolittle, an individual doing business as Automotive Industrial Distributing Co.; Auto Parts & Machine Company, a corporation; Clark County Wholesale Mercantile Co., Inc., a corporation; Curtis & Christensen, Inc., a corporation; Donald L. Diedrich, an individual doing business as L. N. Diedrich, Inc.; Eckdahl Auto Parts Co., a corporation; Theodore Terzenbach, an individual doing business as Economy Auto Parts & Machine Co.; Donald P. Godber, R. S. Hollett and M. K. Godber, copartners doing business as G & H Auto Parts; James K. Gardner, an individual doing business as Gardner Automotive Parts; B. H. Dickey, an individual doing business as General Auto Parts; George W. Graveline, an individual doing business as Graveline Auto Parts; Green Motor Parts, a corporation; W. E. Hardy, an individual doing business as Hardy Auto Parts; R. B. Huston, George Huston and K. A. Greer, copartners doing business as Hollister Auto Parts; W. W. Kerrigan, Jr., an individual doing business as Kerrigan Auto Parts; H. C. Jepson, an individual doing business as Los Gatos Auto Supply; Ernest R. Blome, James G. Blome, and Floyd Beutler, copartners doing business as Mel's Auto Supply; Carl Pate and William Lehnhoff, copartners doing business as Montgomery Auto Parts; National Parts Co., a corporation; H. M. Parker & Son, a corporation; John M. Moss, Dudley Laughton, Roland Imwalle, and Lucille Loeper (erroneously referred to in the complaint as Lucille Leeper), copartners doing business as Peninsula Auto Parts Co.; Pioneer Mercantile Co., a corporation; Psenner-Pauff, Inc., a corporation; Santa Cruz Auto Parts, Inc., a corporation; Standard Auto Parts, Inc., a corporation; Stedman Auto Parts, Inc., a corporation; Valley Auto Supply Co., a corporation; Valley Auto Supply of San Bernardino, a corporation; Frank P. Verbeck, an individual doing business as Verbeck's

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Automotive Sales; Walter's Auto Parts, a corporation; James Sheerin doing business as West Covina Auto Supply; Southwest Automotive Distributors, Inc., a corporation; and L. E. Williams, D. S. Allbright, C. H. Briggs, R. J. Hoefflerle, T. S. Huddleston, Rodney B. Terzenbach, F. Lorin Ronnow, E. W. Arnold, George M. Roman, Stanley C. Brower, Fred J. Curtis, Mable Curtis, H. Kelly, Ralph Hubert, B. T. Eckdahl, A. D. Shaw, Fred A. Guffin, E. E. Green, T. E. Hermanson, Joseph R. Mulch, Emeline Dawson, Norman B. Parker, A. W. Owen, A. J. Filar, Frank G. Schamblin, L. A. Schamblin, A. E. Randour, H. E. Psenner, Carolyn Psenner, A. N. Pauff, E. J. Ayer, Paul Schaeffer, Charles Quinn, Frank D. Muzio, P. E. Stedman, R. E. Stedman, W. A. Tondro, Ella Belle Tondro, Lyman W. Tondro, John Wilson, Paul Clammer, Arthur Lindholm, Joseph L. Walter, R. W. Cottle, R. Connell, and Allen Sheerin, with violation of the provisions of subsection (f) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act.

After the issuance of the complaint, said respondents entered into an agreement containing consent order to cease and desist with counsel in support of the complaint, disposing of all the issues in this proceeding, which agreement was duly approved by the acting director of the Bureau of Litigation.

Subsequent to the submission of said agreement containing a consent order, counsel for the respondents and counsel in support of the complaint on December 19, 1958, filed a joint motion to amend said agreement so as to provide for the dismissal of said individual respondents named in said motion and to correct the name of one respondent. In said motion, counsel for the respondents represented that all signatories to the consent agreement are represented by him and that he has consulted with them and is specifically authorized to join with counsel supporting the complaint in said motion. Thereafter on January 13, 1959, the hearing examiner, after consideration of said motion, issued an order amending said agreement containing consent order to cease and desist as provided for in said motion.

It was expressly provided in said amended agreement that the signing thereof is for settlement purposes only and does not constitute an admission by said respondents that they have violated the law as alleged in the complaint.

By the terms of said amended agreement, the said respondents admitted all the jurisdictional facts alleged in the complaint and

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agreed that the record herein may be taken as if the Commission had made findings of jurisdictional facts in accordance with the allegations, and that this amended agreement disposes of all of this proceeding as to all parties, except respondents Pomona Motor Parts, Joseph K. Wilkinson, and Helen Bates.

By said amended agreement, the said respondents expressly waived any further procedural steps before the hearing examiner and the Commission; the making of findings of fact or conclusions of law; and all the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the amended agreement.

Respondents further agreed that the order to cease and desist, issued in accordance with said amended agreement shall have the same force and effect as if made after a full hearing.

It was further provided that said amended agreement, together with the complaint, shall constitute the entire record herein; that the complaint herein may be used in construing the terms of the order issued pursuant to said amended agreement; and that said order may be altered, modified or set aside in the manner prescribed by the statute for orders of the Commission.

The hearing examiner has considered the amended agreement and the order therein contained, and, it appearing that said amended agreement and order provide for an appropriate disposition of this proceeding as to all parties, except Pomona Motor Parts, Joseph K. Wilkinson, and Helen Bates, the same is hereby accepted and is ordered filed upon becoming part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the Rules of Practice, and, in consonance with the terms of said amended agreement, the hearing examiner finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents named herein, and issues the following order:

ORDER

It is ordered, That respondents, Allbright's, a corporation, and its officers; Jack R. Doolittle, individually and doing business as Automotive Industrial Distributing Co.; Auto Parts & Machine Company, a corporation, and its officers; Clark County Wholesale Mercantile Co., Inc., a corporation, and its officers; Curtis & Christensen, Inc., a corporation, and its officers; Donald L. Diedrich, individually and doing business as L. N. Diedrich, Inc.; Eckdahl Auto Parts Co., a corporation, and its officers; Theodore

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Terzenbach, individually and doing business as Economy Auto Parts & Machine Co.; Donald P. Godber, R. S. Hollett, and M. K. Godber, individually and as copartners doing business as G & H Auto Parts; James K. Gardner, individually and doing business as Gardner Automotive Parts; B. H. Dickey, individually and doing business as General Auto Parts; George W. Graveline, individually and doing business as Graveline Auto Parts; Green Motor Parts, a corporation, and its officers; W. E. Hardy, individually and doing business as Hardy Auto Parts; R. B. Huston, George Huston, and K. A. Greer, individually and as copartners doing business as Hollister Auto Parts; W. W. Kerrigan, Jr., individually and doing business as Kerrigan Auto Parts; H. C. Jepson, individually and doing business as Los Gatos Auto Supply; Ernest R. Blome, James G. Blome, and Floyd Beutler, individually and as copartners doing business as Mel's Auto Supply; Carl Pate and William Lehnhoff, individually and as copartners doing business as Montgomery Auto Parts; National Parts Co., a corporation, and its officers; H. M. Parker & Son, a corporation, and its officers; John M. Moss, Dudley Laughton, Roland Imwalle, and Lucille Loeper (erroneously referred to in the complaint as Lucille Leeper), individually and as copartners doing business as Peninsula Auto Parts Co.; Pioneer Mercantile Co., a corporation, and its officers; Psenner-Pauff, Inc., a corporation, and its officers; Santa Cruz Auto Parts, Inc., a corporation, and its officers; Standard Auto Parts, Inc., a corporation, and its officers; Stedman Auto Parts, Inc., a corporation, and its officers; Valley Auto Supply Co., a corporation, and its officers; Valley Auto Supply of San Bernardino, a corporation, and its officers; Frank P. Verbeck, individually and doing business as Verbeck's Automotive Sales; Walter's Auto Parts, a corporation, and its officers; James Sheerin, individually and doing business as West Covina Auto Supply; Southwest Automotive Distributors, Inc., a corporation, and its officers; and the following individuals: L. E. Williams, D. S. Allbright, C. H. Briggs, R. J. Hoefflerle, T. S. Huddleston, Rodney B. Terzenbach, F. Lorin Ronnow, E. W. Arnold, George M. Roman, Stanley C. Brower, Fred J. Curtis, Mable Curtis, H. Kelly, Ralph Hubert, B. T. Eckdahl, A. D. Shaw, Fred A. Guffin, E. E. Green, T. E. Hermanson, Joseph R. Mulch, Emeline Dawson, Norman B. Parker, A. W. Owen, A. J. Filar, Frank G. Schamblin, L. A. Schamblin, A. E. Randour, H. E. Psenner, Carolyn Psenner, A. N. Pauff, E. J. Ayer, Paul Schaeffer, Charles Quinn, Frank

D. Muzio, P. E. Stedman, R. E. Stedman, W. A. Tondro, Ella Belle Tondro, Lyman W. Tondro, John Wilson, Paul Clammer, Arthur Lindholm, Joseph L. Walter, R. W. Cottle, R. Connell, and Allen Sheerin; and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering to purchase or purchase of any automotive products or supplies in commerce, as "commerce" is defined in the Clayton Act, do forthwith cease and desist from:

Knowingly inducing or knowingly receiving or accepting any discrimination in the price of such products and supplies, by directly or indirectly inducing, receiving, or accepting from any seller a net price known by respondents to be below the net price at which said products and supplies of like grade and quality are being sold by such seller to other customers, where the seller is competing with any other seller for respondents' business, or where respondents are competing with other customers of the seller.

For the purpose of determining "net price" under the terms of this order, there shall be taken into account discounts, rebates, allowances, deductions or other terms and conditions of sale by which net prices are effected.

It is further ordered, That the complaint in this proceeding be, and it is hereby, dismissed as to the individual respondents Richard Peterson, Dennis Panis, Allen Sticker, William Pointer, Raymond Nelson, E. V. Stretz, Henry Mezor, Joseph Ochoa, and George Lipp.

By *Earl J. Kolb*, hearing examiner.

Mr. Eldon P. Schrup and *Mr. Robert E. Vaughan*, for the Commission.

Nichols, Cooper, Hickson and Lamb, of Pomona, Calif., for respondents Pomona Motor Parts, Joseph K. Wilkinson and Helen Bates.

INITIAL DECISION AS TO POMONA MOTOR PARTS,
JOSEPH K. WILKINSON AND HELEN BATES

The complaint in this proceeding issued September 17, 1957, charges the respondents Pomona Motor Parts, a corporation, Joseph K. Wilkinson and Helen Bates, individually, with violation of the provisions of subsection (f) of Section 2 of the Clayton Act, as amended, by the Robinson-Patman Act.

After the issuance of the complaint, all of said respondents,

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except Pomona Motor Parts, Joseph K. Wilkinson and Helen Bates, entered into an agreement containing consent order to cease and desist with counsel in support of the complaint, disposing of all the issues in this proceeding as to them, and on January 19, 1959, the hearing examiner issued an initial decision based upon such agreement.

An agreement containing consent order to cease and desist disposing of all the issues in this proceeding as to respondents Pomona Motor Parts, Joseph K. Wilkinson and Helen Bates has now been entered into by said respondents and counsel supporting the complaint, which agreement was duly approved by the Acting Director of the Bureau of Litigation. The term "respondents," as hereinafter used, therefore will refer only to respondents Pomona Motor Parts, Joseph K. Wilkinson and Helen Bates.

It was expressly provided in said agreement that the signing thereof is for settlement purposes only and does not constitute an admission by said respondents that they have violated the law as alleged in the complaint.

By the terms of said agreement, the said respondents admitted all the jurisdictional facts alleged in the complaint and agreed that the record herein may be taken as if the Commission had made findings of jurisdictional facts in accordance with the allegations.

By said agreement, the said respondents expressly waived any further procedural steps before the hearing examiner and the Commission; the making of findings of fact or conclusions of law; and all the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement.

Respondents further agreed that the order to cease and desist, issued in accordance with said agreement, shall have the same force and effect as if made after a full hearing.

It was further provided that said agreement, together with the complaint, shall constitute the entire record herein; that the complaint herein may be used in construing the terms of the order issued pursuant to said agreement; and that said order may be altered, modified or set aside in the manner prescribed by the statute for orders of the Commission.

The hearing examiner has considered such agreement and the order therein contained, and, it appearing that said agreement and order provides for an appropriate disposition of this proceeding, the same is hereby accepted and is ordered filed upon be-

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coming part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the Rules of Practice, and, in consonance with the terms of said agreement, the hearing examiner finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents named herein, and issues the following order:

ORDER

It is ordered, That respondents, Pomona Motor Parts, a corporation, and its officers, and Joseph K. Wilkinson and Helen Bates, individually, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering to purchase or purchase of any automotive products or supplies in commerce, as "commerce" is defined in the Clayton Act, do forthwith cease and desist from:

Knowingly inducing or knowingly receiving or accepting any discrimination in the price of such products and supplies, by directly or indirectly inducing, receiving, or accepting from any seller a net price known by respondents to be below the net price at which said products and supplies of like grade and quality are being sold by such seller to other customers, where the seller is competing with any other seller for respondents' business, or where respondents are competing with other customers of the seller.

For the purpose of determining "net price" under the terms of this order, there shall be taken into account discounts, rebates, allowances, deductions or other terms and conditions of sale by which net prices are effected.

FINAL ORDER

The hearing examiner, on January 20, 1959, having filed in this proceeding, two initial decisions wherein he accepted agreements containing identical orders to cease and desist, theretofore executed by the respondents and counsel in support of the complaint, and entered his order in conformity therewith; and

It appearing that counsel for all respondents, except Pomona Motor Parts, a corporation, and its officers, Joseph K. Wilkinson and Helen Bates, has filed a motion requesting, in effect, that the Commission withhold its decision or stay the effective date of the initial decisions insofar as said respondents are concerned, until certain of the respondents' competitors are made subject to

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orders to cease and desist similar to those provisionally entered herein; and

The Commission having considered the initial decisions and said motion and answer thereto, and being of the opinion that the initial decisions constitute an adequate and appropriate disposition of this matter and that no sufficient grounds have been established to justify the requested stay:

It is ordered, That the aforesaid motion to stay filed on behalf of certain of the respondents be, and it hereby is, denied.

It is further ordered, That the two aforesaid initial decisions shall upon the 27th day of March 1959, become the decisions of the Commission.

It is further ordered, That all respondents herein not specifically dismissed in said initial decisions 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 orders to cease and desist contained in the aforesaid initial decisions.

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IN THE MATTER OF
SMITH FUR COMPANY

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

Docket 7205. Complaint, July 23, 1958—Decision, Mar. 27, 1959

Consent order requiring furriers in Chicago to cease violating the Fur Products Labeling Act by failing to label and invoice fur products as "second-hand" when that was the case, and failing in other respects to comply with the labeling and invoicing requirements; by advertising which represented prices of fur products falsely to be "Wholesale Cost or Below" and as "60% below retail"; and by failing to maintain adequate records on which such pricing claims were based.

Mr. William A. Somers for the Commission.

Mr. Norman H. Arons, of Chicago, Ill., for respondents.

INITIAL DECISION BY WALTER R. JOHNSON, HEARING EXAMINER

In the complaint dated July 23, 1958, the respondents are charged with violating the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act and the Rules and Regulations made pursuant thereto.

On January 8, 1959, the respondents and their attorney entered into an agreement with counsel in support of the complaint for a consent order.

The hearing examiner finds that the content of the agreement meets all of the requirements of Section 3.25(b) of the Rules of the Commission.

The hearing examiner being of the opinion that the agreement and the proposed order provide an appropriate basis for disposition of this proceeding as to all of the parties, the agreement is hereby accepted and it is ordered that the agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission. The following jurisdictional findings are made and the following order issued:

1. Respondents Mac Smith and Libbie Smith are individuals and copartners trading as Smith Fur Company, with offices and principal place of business located at 333 West Adams Street, Chicago, Ill.
2. The Federal Trade Commission has jurisdiction of the sub-