

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.

IN THE MATTER OF
EARL H. ANDERSON DOING BUSINESS AS
THE FREE SCHOOL

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

Docket C-730. Complaint, Mar. 27, 1964—Decision, Mar. 27, 1964

Consent order requiring a Kokomo, Ind., seller of civil service correspondence courses to cease representing falsely, by use of his trade name and in promotional material and newspaper and magazine advertising, that his courses were free of charge; that purchasers did not have to pay for them until they had a civil service position; that his courses were different from others and were tailored to individual needs; and that his school was the largest of its kind in the United States: and to cease rerepresenting

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falsely through his salesmen that the enrollment fee merely covered the cost of handling and postage; that questions in the course were identical to those in civil service examinations; and that the school enrolled only two or three students in a particular area.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Earl H. Anderson, an individual, doing business as The Free School, hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Earl H. Anderson is an individual trading and doing business as The Free School, with his office and principal place of business located at 308-10 Armstrong, Landen Building, Kokomo, Indiana.

Respondent is now, and for more than one year last past has been, engaged in the advertising, offering for sale, sale and distribution of home study courses of instruction and civil service courses of instruction to prospective students located in various States of the United States.

PAR. 2. In the course and conduct of his business, respondent now causes, and for some time last past has caused, the said courses of instruction to be mailed from his place of business in the State of Indiana to purchasers thereof located in various other States of the United States, and maintains, and at all times mentioned herein has maintained, a substantial course of trade in said courses of instruction in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 3. In the course and conduct of his business, and for the purpose of inducing the sale of said courses of instruction, respondent has made numerous statements and representations, in promotional material distributed through the United States mails and in advertisements inserted in newspapers and magazines of general circulation, respecting the price and quality of said courses of instruction.

Typical of, but not all inclusive of, said statements and representations are the following:

The Free School

CIVIL SERVICE

Prepare for Civil Service Examination and pay for your course after securing position. Small nominal fee required of student.

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The principles of The Free School are different from other correspondence schools. All of The Free School's lessons are mimeo-typed so as to meet that particular students needs. You are a personal student not a mere unit in the class.

Don't

Dare

Try

THE FREE SCHOOL

You Can		Course
Prepare	When	After
For	You're	Securing
Civil	Ready	Job
Service	To	Write, The
Examination	Prepare	Free School
And Pay		Dept. 960
For		Kokomo, Ind.

Established 1935

The Free School

The largest school of its kind

PAR. 4. Through the use of the name "The Free School", alone and in connection with the use of the aforesaid statements and representations, and others of similar import and meaning not specifically set out herein, respondent has represented, directly or by implication, that:

1. The courses of instruction offered by said school are free of charge.

2. Purchasers of respondent's courses of instruction do not have to pay for them until they secure a Civil Service position.

3. The principles of The Free School are different from those of other correspondence schools.

4. Respondent's courses of instruction are tailored to meet the individual student's needs by giving individual instruction to students preparing to take civil service examinations.

5. The Free School is the largest civil service school of its kind in the United States.

PAR. 5. In truth and in fact:

1. The courses of instruction offered by The Free School are not free as a substantial enrollment or entry fee, \$45 cash or \$50 on time, is required to cover said courses.

2. Purchasers of respondent's courses of instruction do pay for said courses before obtaining a civil service position as prospective students must pay the enrollment or entry fee before any lessons are

sent to them, and they are charged an additional fee if and when a job is secured.

3. The principles of The Free School are no different from those of many other similar correspondence schools.

4. Respondent's courses of instruction are not tailored to meet the individual student's needs or give individual instructions to students as the courses are of a general nature and the lessons are mimeographed sheets which are not made up for individual students.

5. The Free School is not the largest civil service school of its kind in the United States; its recent enrollment consisted of only 35 students.

Therefore, the statements and representations referred to in Paragraph Four were and are false, misleading and deceptive.

PAR. 6. Respondent's salesmen, for the purpose of selling respondent's courses of instruction and to induce the purchase of said courses, also have represented and continue to represent that:

1. The enrollment or entry fee merely covers the cost of handling and postage for the lessons sent.

2. Questions contained in respondent's courses of instruction are identical to those which appear in civil service examinations for which the particular student is preparing.

3. The Free School is selective and enrolls only two or three students in a particular area.

PAR. 7. In truth and in fact:

1. The enrollment or entry fee does not merely cover the cost of handling and postage but also includes the tuition fee which must be paid by all students before any lessons are sent to them.

2. Questions contained in respondent's courses of instruction are not identical to those appearing in civil service examinations taken by purchasers of said courses.

3. The Free School is not selective as there are no prerequisites for enrollment, and the school will enroll more than two or three students in a particular area.

Therefore, the representations set forth in Paragraph Six above, and others similar thereto, were and are false, misleading and deceptive.

PAR. 8. In the course and conduct of his business, and at all times mentioned herein, respondent has been in substantial competition, in commerce, with corporations, firms and individuals likewise engaged in the sale of correspondence courses for civil service examinations.

PAR. 9. The use by respondent of the aforesaid false, misleading and deceptive statements, representations and practices has had, and

now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondent's courses of instruction by reason of said erroneous mistaken belief.

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

DECISION AND ORDER

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

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

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Earl H. Anderson is an individual trading and doing business as The Free School, with his office and principal place of business located at 308-10 Armstrong, Landen Building, Kokomo, Indiana.

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 respondent Earl H. Anderson, individually and trading as The Free School, or under any other name, directly or

through any corporate or other device, in connection with the offering for sale, sale or distribution of correspondence courses of instruction or other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "Free" as a part of respondent's business or trade name.
2. Representing, directly or by implication, that:
 - (a) His courses of instruction are given free of charge or without cost, or that the enrollment price charged is limited to the cost of postage or handling; or misrepresenting in any other manner the purpose or the amount of the initial fee charged purchasers of his course of instruction.
 - (b) Purchasers of respondent's courses of instruction do not have to pay for them until they have secured a civil service position.
 - (c) The principles of The Free School are different from those of other correspondence schools, or that its courses of instruction are tailored to meet the individual needs of students preparing for civil service examinations.
 - (d) Respondent's school is the largest school of its kind or the largest school for civil service instructions in the United States; or misrepresenting in any other manner the size of respondent's enterprise.
 - (e) The questions included in said courses are identical with those which will appear in the Civil Service examination for which the course is alleged to prepare the purchasers.

It is further 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 this order.

IN THE MATTER OF

GERIATRIC RESEARCH, INC., ET AL.

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

Docket C-731. Complaint, Mar. 27, 1964—Decision, Mar. 27, 1964

Consent order requiring Chicago distributors of a drug preparation and their advertising agency to cease representing falsely in newspaper advertising, by radio and television and otherwise, that their "Over-Fifty Capsulets"

Complaint

were a new discovery, and were of benefit in the prevention of colds, influenza, and other infections; to cease representing that they were of benefit in the treatment and relief of tiredness, nervousness, depression and other similar symptoms unless it was made clear that effectiveness of the preparation was limited to cases of vitamin deficiency, that the named symptoms generally had other causes, and that in persons over 50 there was no special need for any such preparation; and to cease representing falsely, through use of such words as "Geriatric", "Research", or "Laboratories" as part of their trade name, that they were engaged in research or operated a laboratory or were engaged in selling preparations to benefit persons of advanced years.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Geriatric Research, Inc., a corporation, and Fred M. Friedlob, individually and as an officer of said corporation, and Olian & Bronner, Inc., a corporation, and Maurice H. Bronner, individually, and as an officer of both corporations, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Geriatric Research, Inc., which has heretofore sometimes traded as Geriatric Pharmaceuticals, Inc., Geriatric Products, Inc., Geriatric Research Laboratories, and as Geriatric Research Laboratories, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 179 N. Michigan Avenue in the city of Chicago, State of Illinois.

Respondent Fred M. Friedlob is an officer of Geriatric Research, Inc. He participates in the formulation, direction and control of the acts and practices of said corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of said corporate respondent.

Olian & Bronner, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 334 Pure Oil Building in the city of Chicago, State of Illinois.

Respondent Maurice H. Bronner is an officer of both the above corporate respondents. He participates in the formulation, direction and control of the acts and practices of both said corporate respondents, including the acts and practices hereinafter set forth. His ad-

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dress is 334 Pure Oil Building in the city of Chicago, State of Illinois.

PAR. 2. Respondents Geriatric Research, Inc., Fred M. Friedlob, and Maurice H. Bronner are now, and have been for some time last past, engaged in the sale and distribution of a preparation containing ingredients which come within the classification of drugs as the term "drug" is defined in the Federal Trade Commission Act.

The designation for said preparation, the said formula thereof and directions for use are as follows:

Designation: Over-Fifty Capsulets.

Formula:

Vitamin A	15,000 I.U.
Vitamin B-1 (Thiamin HCL)	15 mg.
Vitamin B-2 (Riboflavin)	5 mg.
Vitamin B-6 (Pyridoxine HCL)	0.5 mg.
Vitamin B-12 (N.F.)	5 mcg.
Vitamin C (Ascorbic Acid)	100 mg.
Vitamin D	1,000 I.U.
Vitamin E (d-alpha tocopheryl acetate)	10 I.U.
Niacinamide	50 mg.
Calcium pantothenate	5 mg.
Inositol	10 mg.
l-Lysine Monohydrochloride	25 mg.
Choline bitartrate	10 mg.
dl-Methionine	10 mg.
Rutin	25 mg.
Biotin	25 mcg.
Betain (hcl)	10 mg.
Iron (ferrous sulfate)	20 mg.
Calcium	58.2 mg.
(NOTE: Calcium Phosphorus and Phosphorus are obtained from 250 mg. dicalcium phosphate)	
Sodium (Sodium Chloride)	45.0 mg.
Iodine (Potassium iodide)	1 mg.
Sulphur (Potassium iodide)	0.10 mg.
Sulphur (Sulfates)	15 mg.
Potassium (Potassium sulfate)	5 mg.
Aluminum Hydroxide	30 mg.
Magnesium (Magnesium sulfate)	2 mg.
Copper (Cupric Oxide)	0.50 mg.
Manganese (Manganese sulfate)	0.50 mg.

Directions: One capsulet a day, during or after breakfast, not before.

PAR. 3. Respondents Geriatric Research Inc., Fred M. Friedlob, and Maurice H. Bronner cause the said preparation, when sold, to be transported from their place of business in the State of Illinois to purchasers thereof located in various other States of the United States and in the District of Columbia. Said respondents maintain, and at all times mentioned herein have maintained, a course of trade

in said preparation in commerce as "commerce" is defined in the Federal Trade Commission Act. The volume of business in such commerce has been and is substantial.

Respondent Olian & Bronner, Inc., is now and for some time last past has been the advertising agency of Geriatric Research, Inc. Respondents Olian & Bronner, Inc., and Maurice H. Bronner now prepare and place and have prepared and placed, for publication, advertising and promotional material, including the advertising and promotional material referred to herein, to promote the sale of said preparation. In the conduct of their business and at all times mentioned herein, said respondents have been in substantial competition, in commerce, as "commerce" is defined in the Federal Trade Commission Act, with other corporations, firms and individuals in the advertising business.

PAR. 4. In the course and conduct of their said businesses, respondents have disseminated, and caused the dissemination of, certain advertisements concerning the said preparation by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including, but not limited to, advertisements inserted in newspapers and other advertising media, and by means of radio broadcasts transmitted by radio stations located in various States of the United States, and in the District of Columbia, having sufficient power to carry such broadcasts across State lines, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparation; and have disseminated, and caused the dissemination of, advertisements concerning said preparation by various means, including but not limited to the aforesaid media for the purpose of inducing and which were likely to induce directly or indirectly, the purchase of said preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. Among and typical of the statements and representations contained in said advertisements disseminated as hereinabove set forth are the following:

OVER-FIFTY CAPSULETS

* * * * *

Let me prove to you * * * that you can:

- relieve that tired, worn-out feeling
- feel younger, peppier, more energetic
- build resistance against flu, colds and other infections
- ease those worries that wear you out
- enjoy the fun of life like you used to
- be healthier—happier!

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Medical research has proved that folks over fifty need different kinds of vitamins and minerals—in different amounts—than younger people. To meet these specific needs, Geriatric Research Laboratories have scientifically formulated safe, high-potency Over-Fifty Capsulets.

Supplies ALL the 28 Vitamins, Minerals, Amino Acids, etc. you need for health.

- 15 times the adult minimum requirements of Vitamin B-1.
- More than 3 times of Vitamin A and Vitamin C.
- 2½ times the Vitamin B-2 and Vitamin D.
- 2 times of iron.

All this plus * * *

(Over-Fifty Capsulets formula listed here) Your body needs these nutritional supplements for health and energy! (newspaper)

* * * * *

I want to help you, if you suffer from problems so common to so many of us after we become fifty. Problems like loss of vigor and vitality. Always "too tired". Worried and nervous. Irritable with our families * * *. For relief from symptoms like these, hundreds of thousands of men and women have tried pep-boosting Over-Fifty Capsulets. (newspaper)

* * * * *

So the famous Geriatric Research Laboratories of Chicago have formulated a *new* kind of vitamins *especially* to meet the specific needs of folks over 50. They're called Over-Fifty Capsulets—and they give not one—not five—not a dozen vitamins—but 28 proved ingredients—vitamins, minerals and other nutritional supplements that folks over fifty *need* for health and happiness * * *. Try them and discover, in just a few short days—they'll help end that tired feeling at night * * * relieve you of worry and tension during the day * * * make you feel *younger*, more *energetic* and *happier* than you have for years! (radio)

* * * * *

Friends, it's so foolish and now so unnecessary to allow yourself to feel tired, run-down, dragged out * * * to feel tired when awake and restless when its time to sleep. Your own doctor will probably tell you that you may need a dietary supplement. He'll probably also advise that *ordinary* vitamins are no guarantee against energy-robbing nutritional deficiencies. That's why you should try this high potency of 28 vitamins and minerals specifically formulated for folks in their later years. (radio)

* * * * *

Q. What are the symptoms of diet deficiency in folks over fifty?

A. A diet deficiency can be one of the causes of symptoms like these:

- feeling "old before your time"
- a lack of energy
- nervousness
- less vitality than normal for your age
- a tired, "run down" feeling
- listlessness and depression
- irritability * * *.

Q. What can you do right now?

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A. You can start to take the PROPER COMBINATION of vitamins and minerals. These supplementary aids can gradually help you overcome a diet deficiency * * *.

Q. What formula can do all this?

A. OVER-FIFTY CAPSULETS. It is not "just another vitamin." This high potency formula of essential vitamins, minerals and other food elements was scientifically formulated specially for folks over fifty. (pamphlet)

* * * * *

It's hard to recognize these deficiencies too. Usual symptoms appear as tiredness, irritability, nervous strain, you just don't feel as good as you should. I hope none of you folks are suffering from any of these symptoms. If *you* are, or if *you* want to make sure that you feel your best at all times, take advantage of this offer right now * * *. The Geriatric Research Company, who makes this offer possible, knows that once you feel the remarkable difference after taking Over-Fifty Capsulets, you will want to continue taking them regularly every month. (circular)

* * * * *

As an OVER-FIFTY Plan member, here's what you get:

1. *SPECIAL FORMULA* for folks in their senior years.
2. *HIGH POTENCY*—28 Nutritional Aids. Provides more energy, perk-up alertness.
3. *LABORATORY-FRESH*—mailed directly to you. (circular)

* * * * *

GERIATRIC PRODUCTS, INC.
Finest Pharmaceuticals for Folks Over Fifty

* * * * *

GERIATRIC RESEARCH, INC. HEALTH. VITALITY.

* * * * *

GERIATRIC PHARMACEUTICALS, INC.

* * * * *

GERIATRIC RESEARCH LABORATORIES

* * * * *

GERIATRIC RESEARCH LABORATORIES, INC.

* * * * *

PAR. 6. Through the use of said advertisements, and others similar thereto not specifically set out herein, respondents have represented and are now representing, directly and by implication, that:

1. Over-Fifty Capsulets are a new medical and scientific discovery and achievement;
2. Over-Fifty capsulets will be of benefit in the prevention of influenza, colds and other infections;
3. The use of Over-Fifty Capsulets and each ingredient therein will be of benefit in the treatment and relief of tiredness, nervousness, restlessness, listlessness, worry, irritability, tension, depression, lack of pep and energy, loss of vigor and vitality, and lack of alertness.

PAR. 7. In truth and in fact:

1. Over-Fifty Capsulets are not a new medical or scientific discovery or achievement;
2. Over-Fifty Capsulets will not be of benefit in the prevention of influenza, colds or other infections;
3. Over-Fifty Capsulets will not be of benefit in the treatment or relief of the symptoms of tiredness, nervousness, restlessness, listlessness, worry, irritability, tension, depression, lack of pep or energy, loss of vigor or vitality, or lack of alertness, except in a small minority of persons whose tiredness, nervousness, restlessness, listlessness, worry, irritability, tension, depression, lack of pep or energy, loss of vigor or vitality, or lack of alertness is due to a deficiency of Vitamin B-1 (Thiamin), Vitamin B-2 (Riboflavin), Vitamin C (Ascorbic Acid), or Niacinamide. All the remaining ingredients in this preparation are of no benefit in the treatment or relief of said symptoms.

Therefore, the advertisements set forth and referred to in Paragraph Five were and are misleading in material respects and constituted, and now constitute, false advertisements as that term is defined in the Federal Trade Commission Act.

PAR. 8. Through the use of the statements in the aforesaid advertisements, and others similar thereto not specifically set out herein, respondents have represented and are now representing, directly and by implication, to persons of both sexes and all ages who experience tiredness, nervousness, restlessness, listlessness, worry, irritability, tension, depression, lack of pep and energy, loss of vigor and vitality, or lack of alertness, that there is a reasonable probability that they have symptoms which will respond to treatment by the use of the aforementioned preparation. In the light of such statements and representations, said advertisements are misleading in a material respect, and therefore constitute false advertisements, as that term is defined in the Federal Trade Commission Act, because they fail to reveal the material facts that in the great majority of persons, or of any age, sex, or other group or class thereof, who experience the symptoms of tiredness, nervousness, restlessness, listlessness, worry, irritability, tension, depression, lack of pep or energy, loss of vigor or vitality, or lack of alertness, such symptoms are not caused by a deficiency of one or more of the nutrients provided by Over-Fifty Capsulets, and that in such persons the said preparation will be of no benefit.

PAR. 9. Through the use of the corporate name Geriatric Research, Inc., and the trade names Geriatric Pharmaceuticals, Inc., Geriatric Products, Inc., Geriatric Research, Inc., Geriatric Research Labora-

tories and Geriatric Research Laboratories, Inc., and the brand name "Over-Fifty Capsulets," separately and in conjunction with the statements and representations set forth and referred to in Paragraph Five above, respondents have also represented, and are now representing, directly and by implication, that Geriatric Research, Inc. is engaged in research in that field of medicine which is concerned with old age and its diseases, that said corporation operates a laboratory in connection with its business, that said corporation is engaged in the business of formulating and selling preparations to prevent, treat and cure diseases peculiar to persons of advanced years and the symptoms thereof, and that persons past fifty years of age have a special need for Over-Fifty Capsulets.

In truth and in fact, said corporation is not engaged in research in that field of medicine which is concerned with old age or its diseases, nor does it engage in any other kind of research, nor does it operate a laboratory in connection with its business, nor is it engaged in the business of formulating or selling preparations to prevent, treat or cure diseases peculiar to persons of advanced years or the symptoms thereof, nor is there a special need for Over-Fifty Capsulets in adults, or in any age, sex, or other group or class of adults. Therefore the advertisements set forth and referred to in Paragraph Five above were and are misleading in material respects and constituted, and now constitute, false advertisements as that term is defined in the Federal Trade Commission Act.

PAR. 10. The dissemination by the respondents of the false advertisements, as aforesaid, constituted, and now constitutes, unfair and deceptive acts and practices in commerce, in violation of Sections 5 and 12 of the Federal Trade Commission Act.

DECISION AND ORDER

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

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondents of all the jurisdictional facts set forth in the complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an ad-

mission by respondents that the law has been violated as set forth in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Geriatric Research, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 179 N. Michigan Avenue, in the city of Chicago, State of Illinois.

Respondent Fred M. Friedlob is an officer of said corporation and his address is the same as that of said corporation.

Respondent Olian & Bronner, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 334 Pure Oil Building, in the City of Chicago, State of Illinois.

Respondent Maurice H. Bronner is an officer of both of the said corporations and his address is the same as that of Olian & Bronner, Inc.

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

ORDER

It is ordered, That respondents Geriatric Research, Inc., a corporation trading as Geriatric Pharmaceuticals, Inc., Geriatric Products, Inc., Geriatric Research Laboratories, or as Geriatric Research Laboratories, Inc., or under any other trade name or names, and its officers, and Fred M. Friedlob, individually and as an officer of said corporation, and Olian & Bronner, Inc., a corporation, and its officers, and Maurice H. Bronner, individually and as an officer of both corporations, 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 "Over-Fifty Capsulets" or any other preparation of substantially similar composition, or possessing substantially similar properties, under whatever name or names sold, do forthwith cease and desist from:

1. Disseminating, or causing the dissemination of any advertisement, directly or indirectly, by means of the United States

mails or by any other means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which represents directly or by implication:

(a) That said preparation is a new medical or scientific discovery or achievement;

(b) That the use of said preparation will be of benefit in the prevention of influenza, colds or other infections;

(c) That the use of said preparation, will be of benefit in the treatment or relief of the symptoms of tiredness, nervousness, restlessness, listlessness, worry, irritability, tension, depression, lack of pep or energy, loss of vigor or vitality, or lack of alertness, unless such advertisement expressly limits the effectiveness of the preparation to those persons whose symptoms are due to a deficiency of Vitamin B-1 (Thiamin), Vitamin B-2 (Riboflavin), Vitamin C (Ascorbic Acid), or Niacinamide, and further, unless such advertising clearly and conspicuously reveals the facts that in the great majority of persons, or of any age, sex, or other group or class thereof, who experience such symptoms, these symptoms are caused by conditions other than those which may respond to treatment by the use of the preparation, and that in such persons the preparation will not be of benefit;

(d) That the ingredients in said preparation other than Vitamin B-1 (Thiamin), Vitamin B-2 (Riboflavin), Vitamin C (Ascorbic Acid), or Niacinamide will be of benefit in the treatment or relief of tiredness, nervousness, restlessness, listlessness, worry, irritability, tension, depression, lack of pep or energy, loss of vigor or vitality, or lack of alertness.

2. Disseminating, or causing to be disseminated, directly or indirectly, by means of the United States mails or by any other means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement in which the words "Over-Fifty" or any other words of similar import, are used as a part of any name under which respondents do business or as a part of the name of any such preparation, unless respondents clearly and conspicuously state, in immediate conjunction with such words, that in persons over 50 years of age, there is no special need for any such preparation.

3. Disseminating, or causing to be disseminated, directly or indirectly, by means of the United States mails or by any other means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement in which the words

"Geriatric", "Research", or "Laboratories", singly or in combination, or any other words of similar import, are used as a part of any name under which respondents Geriatric Research, Inc., Fred M. Friedlob or Maurice H. Bronner, do business, or which represents in any manner, directly or indirectly, that said respondents are engaged in research in that field of medicine which is concerned with old age or its diseases, or in research of any kind, or that said respondents operate a laboratory in connection with their business, or that said respondents are engaged in the business of formulating or selling preparations to prevent, treat or cure diseases peculiar to persons of advanced years or the symptoms thereof.

4. Disseminating, or causing to be disseminated, directly or indirectly, by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of any such preparation, in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any of the representations prohibited in Paragraph 1, 2 or 3 hereof or which fails to comply with any of the affirmative requirements of Paragraphs 1 and 2 hereof.

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.

INTERLOCUTORY, VACATING, AND MISCELLANEOUS ORDERS

THE J. B. WILLIAMS COMPANY, INC., ET AL.

Docket 8547. Order, Jan. 3, 1964

Order denying complaint counsel's request to challenge hearing examiner's interpretation of his order in regard to rebuttal witnesses.

ORDER DENYING REQUEST FOR LEAVE TO FILE INTERLOCUTORY APPEAL

Complaint counsel in the above-captioned matter filed on December 9, 1963, an application, pursuant to Section 3.20 of the Commission's Rules of Practice and Procedure, for leave to appeal from a ruling by the hearing examiner. Respondents filed a brief in opposition on December 16. The ruling in question is a statement of the examiner made on December 3, 1963, interpreting his order of November 14, 1963. The order established the procedure to be followed in complaint counsel's presentation of his case in rebuttal. The order requires complaint counsel to state the following with respect to each rebuttal witness he intends to call:

"1. The precise statement or statements in the respondents' case which the testimony of the proposed rebuttal witness will refute.

"2. The identity of the witness or witnesses called by respondents whose testimony will be refuted or rebutted by the proposed rebuttal witnesses offered by counsel supporting the complaint; and

"3. The identity of any document that a proposed rebuttal witness will rebut."

Under the Commission's Rules of Practice and Procedure, control of the course and procedure of evidentiary hearings is in the sound discretion of the hearing examiner (see Sections 3.8 and 3.15). The examiner's order of November 14, 1963, establishing the procedure of the rebuttal hearings is not, on its face, so manifestly unjust as to warrant review by the Commission on interlocutory appeal, in view of the provision in Section 3.20 of the Rules that permission to file an interlocutory appeal "will not be granted except in extraordinary circumstances where an immediate decision by the Commission is clearly necessary to prevent detriment to the public interest". Nor does the examiner's explanatory statement of December 3, 1963, the im-

mediate occasion of complaint counsel's present application, warrant entertaining an appeal at this time. Accordingly,

It is ordered, That the application for leave to file an interlocutory appeal be, and it hereby is, denied.

LONE STAR CEMENT CORPORATION

Docket 8585. Order, Feb. 7, 1964

Order denying respondent's petition to file interlocutory appeal relating to the question of "line of commerce" being in interstate commerce.

ORDER DENYING PETITION TO FILE INTERLOCUTORY APPEAL

On January 22, 1964, respondent in the above-captioned matter filed a request, pursuant to Section 3.20 of the Commission's Procedures and Rules of Practice, for permission to file an interlocutory appeal from the hearing examiner's denial of respondent's motion to dismiss certain paragraphs of the complaint, concerning the "ready-mixed concrete line of commerce" in the "Seattle area". Respondent states that its motion "raised a clear-cut question of law, namely, whether a relevant 'line of commerce' under Section 7 must be a line of interstate commerce." This question of law, however, was resolved by the Commission in *Foremost Dairies, Inc.*, F.T.C. Docket 6495 (decided April 30, 1962) [60 F.T.C. 944, 1078]:

respondent argues that under Section 7, the adverse competitive impact must be felt in a line of interstate commerce in which the acquired company is engaged.

* * * * *

Section 7 does require that both the acquired and acquiring corporations be engaged in commerce * * *. Having met this requirement, adverse competitive effects resulting from the activities of such interstate companies, whether such effects be local or interstate, are within the scope of Section 7. (pp. 36-37)

In view of this express ruling on the question of law presented in respondent's motion to the examiner, no useful purpose would be served by permitting an interlocutory appeal from the examiner's denial of that motion. Furthermore, respondent's appeal may be premature in view of complaint counsel's assertion (brief in opposition to respondent's request to appeal, p. 3) that the question of whether the manufacture or sale of ready-mixed concrete in the Seattle area involves interstate commerce remains to be litigated.

Permission to file an interlocutory appeal "will not be granted except in extraordinary circumstances where an immediate decision by the Commission is clearly necessary to prevent detriment to the public interest." The Commission has analogized this test to that which governs appeals from interlocutory orders of federal district courts

under 28 U.S.C. § 1292(b), *i.e.*, that the order appealed from “involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation.” *Topps Chewing Gum, Inc.*, F.T.C. Docket 8463 (Order of November 15, 1963) [63 F.T.C. 2223]. In the circumstances, allowance of an interlocutory appeal at this juncture of the case would serve to delay, rather than to expedite, the disposition of this proceeding. Accordingly,

It is ordered, That respondent’s request for permission to file an interlocutory appeal be, and it hereby is, denied.

NATIONAL DAIRY PRODUCTS CORPORATION

Docket 8548. Order, Feb. 14, 1964

Order remanding proceeding to hearing examiner for reconsideration of respondent’s motion to quash subpoenas.

ORDER REMANDING TO HEARING EXAMINER FOR RECONSIDERATION

The Commission has before it the appeal of Old Virginia Packing Co., Inc., Theresa Friedman & Sons, Inc., M. Polaner & Son, Inc., and Polaner Sales Corp. of New Jersey, filed on January 15, 1964, pursuant to Section 3.17(f) of the Commission’s Procedures and Rules of Practice, from orders of the hearing examiner denying their motions to quash or modify subpoenas *duces tecum* issued to them at the instance of respondent in the above-captioned proceeding, and respondent’s answer in opposition to said appeal, filed on January 30, 1964.

Two contentions are advanced in the appeal: first, that the subpoenas are improper because the documents they require to be produced are irrelevant to the issues in the proceeding as framed in the complaint; second, that even if such documents are relevant, they should only be produced under the conditions specified in *Grand Union Co.*, F.T.C. Docket 8458 (Order of February 11, 1963) [62 F.T.C. 1491] (see also *Columbia Broadcasting System.*, F.T.C. Docket 8512 (Order of February 26, 1963) [62 F.T.C. 1518]; *Furr’s, Inc.*, F.T.C. Docket 8581 (Order of November 18, 1963 [63 F.T.C. 2225]), governing the production of documents in circumstances where there is a substantial danger of disclosure of unnecessary or improper information concerning the operations and affairs of competitors.

The subpoenas require appellants to produce documents disclosing their total sales, prices and promotional practices in certain markets, and identity and volume of business done with each appellant’s ten largest customers in those markets—all for a period of time running

from two years before, to almost two years after, respondent's allegedly unlawful acts. Without passing on the question of whether such information is relevant to the preparation of respondent's defense, we conclude that the subpoenas are not so manifestly improper in scope as to warrant entertaining an appeal from the examiner's refusal to quash them. Section 3.17(f) provides that such an appeal "will be entertained by the Commission only upon a showing that the ruling complained of involves substantial rights and will materially affect the final decision and that a determination of its correctness before conclusion of the hearing will better serve the interests of justice." The present appeal, insofar as it seeks the quashing of the subpoenas, does not meet this test.

However, a more difficult question is presented by the second contention urged in the appeal, namely that the *Grand Union* procedure should be applied with respect to these subpoenas. Neither respondent nor complaint counsel objected to applying such a procedure to these subpoenas. From the examiner's orders, it appears that the examiner believed that, notwithstanding the agreement among the parties involved, he was foreclosed from applying the *Grand Union* procedure by the strong policy against *in camera* treatment expressed in *H. P. Hood & Sons, Inc.*, 58 F.T.C. 1184 (1961). This reflects a misconception of *Hood*. That decision is predicated on the importance of having a public rather than secret record in adjudicative proceedings. However, the subpoenas involved in this matter seek the *production* of documents, which is a preliminary step to introducing some or all of them into *evidence*. The strong policy in favor of placing all evidence in the public record is not inconsistent with conditioning the production of documents upon adherence to the *Grand Union* procedure.

In this connection, we emphasize that the *Grand Union* procedure does not provide—as appellants appear mistakenly to believe—for the *in camera* treatment of any *evidence* that may be obtained as a result of the production of documents under the conditions and safeguards required by the procedure. Indeed, as the Commission pointed out in *Furr's, Inc.*, *supra*, application of the *Grand Union* procedure is ordinarily not appropriate where the documents sought are intended to be used in evidence.

In view of the possible confusion, on the part of the parties and the examiner, concerning the interrelationship of the *Hood* and *Grand Union* principles, we think this matter should be returned to the examiner for reconsideration, in light of this order, of his orders denying appellants' motions. In so disposing of the appeal, we intimate no view on whether appellants should in fact be afforded the *Grand Union* procedure. As pointed out in *Furr's, Inc.*, *supra*, determination of

the applicability of that procedure, like other questions relating to the proper, fair and expeditious conduct of adjudicative hearings, is a matter within the sound discretion of the hearing examiner. Accordingly,

It is ordered, That this matter be remanded to the hearing examiner for reconsideration, in light of this order, of appellants' motions to quash or modify subpoenas.

CLINTON WATCH COMPANY ET AL.

Docket 7434. Order and Statement, Feb. 17, 1964

Order denying request of respondents to suspend earlier order until their competitors are also prohibited from using fictitious pricing.

ORDER ON PETITION TO REOPEN PROCEEDING

Respondents, on January 2, 1964, filed with the Commission a petition, pursuant to Section 3.28(b)(2) of the Commission's Procedures and Rules of Practice, to reopen proceedings in the above-captioned matter for the purpose of suspending the cease and desist order of July 19, 1960 [57 F.T.C. 222], until final orders become effective in certain cases now pending before the Commission. The order against respondents involves fictitious pricing, and respondents contend that they have been placed at a severe competitive disadvantage by virtue of the fact that their competitors have not yet been placed under Commission order, even though, respondents allege, their competitors are engaged in the same fictitious-pricing conduct forbidden by the order outstanding against respondents.

The Commission does not believe that the public interest warrants a suspension of the existing order pending completion of the Commission's proceedings against respondents' competitors. However, the Commission has directed that all outstanding cease and desist orders involving deceptive pricing shall be interpreted, and thus *pro tanto* modified, so as to impose on respondents subject to such orders no greater or different obligations than are stated in the Commission's newly-revised Guides Against Deceptive Pricing, issued on January 8, 1964. Compliance with such orders, as thus modified, should not impose on respondents any onerous or unreasonable burden. The Guides give adequate recognition to the legitimate interests of the businessman and are not punitive or inflexible. The fact that respondents are formally obliged to comply with the order should not interfere with the effective marketing of their products or place respondents at an unfair competitive disadvantage vis-à-vis their competitors who,

though not under formal order, are equally bound by the substantive requirements of the Federal Trade Commission Act, as defined and particularized—in relation to fictitious pricing—by the recently revised Guides. Accordingly,

It is ordered, That respondents' request to suspend the order of July 19, 1960 [57 F.T.C. 222], be, and it hereby is denied.

Commissioner MacIntyre not concurring.

STATEMENT BY COMMISSIONER MACINTYRE

I am compelled to issue a separate statement setting forth my views on the Commission's action in modifying the cease and desist order issued against the Clinton Watch Company in this proceeding. The significant provision amending the order reads as follows:

* * * the Commission has directed that all outstanding cease and desist orders involving deceptive pricing shall be interpreted, and thus *pro tanto* modified, so as to impose on respondents subject to such orders no greater or different obligations than are stated in the Commission's newly-revised Guides Against Deceptive Pricing, issued on January 8, 1964. * * *

I do not concur with this action for the following reasons. Respect for the businessmen who come before it, as well as for the appellate courts, requires that Commission orders be drafted with sufficient precision so that they can be understood. The wholesale "*pro tanto*" incorporation of the provisions in the new Guides, adopted in this instance, affords the Clinton Watch Company no guidance for the regulation of its future conduct with respect to its pricing practices. The Guides, of course, cover a multitude of deceptive pricing practices which may or may not be applicable to the Clinton Watch Company and it is doubtful that the "*pro tanto*" qualification will enlighten either the Commission's staff or respondent as to precisely those terms of the Guides applicable to the Clinton Watch Company. This difficulty is, of course, compounded by the fact that the Guides themselves still require considerable adjudicative definition before either the courts, the Commission, or the business community will be fully advised of their legal significance. In violation of the Supreme Court's injunction in *Federal Trade Commission v. Morton Salt Company*, 334 U.S. 37 (1948), the Commission here is shifting to the courts the burden of determining the factual question of what constitutes unfair conduct. I am surprised that this Commission, which recently has made so many pronouncements of the necessity for clear and definitive orders, is in this area embarking on a course which can lead only to administrative and judicial confusion by issuing orders, the terms of which are so imprecise and indefinite that they are likely to be misunderstood.

DUOTONE COMPANY, INC., ET AL

Docket C-87. Order, Feb. 17, 1964

Order denying respondents' request to modify consent order in regard to disclosure of foreign origin of phonograph needles.

ORDER RULING ON MOTION TO AMEND CONSENT ORDER

This matter is before the Commission on respondents' motion, filed June 10, 1963, to amend paragraphs one, two, and three of the consent order issued February 28, 1962 [60 F.T.C. 453], and briefs and oral argument in support thereof and in opposition thereto. Respondents' motion is concerned solely with that aspect of the consent order directed to the disclosure of the foreign origin of their imported phonograph needles. Respondents request that the order be amended to narrow its application to imported, completely finished phonograph needles so as to preclude application of the order's provisions to those of their phonograph needles consisting wholly or in part of foreign components but assembled in the United States. Respondents also urge that as a practical matter they cannot comply with paragraph three of the order directed to disclosure of the country of foreign origin of their phonograph needles on display or point of sale material as presently construed. They urge that since certain of their needles may originate in any one of several countries, they cannot, with accuracy, specify the country of foreign origin of a particular needle on their display material, such as wall charts or catalogs. In this connection, they apparently request an instruction from the Commission holding the legend on display or point of sale material that "Needles Of Foreign Origin Will Be So Designated On The Individual Packages" in compliance with paragraph three of the order.

The Commission, in reviewing this matter, has determined that there is no need for modifying the order but that its scope and Duotone's obligations thereunder should be clarified for the benefit of respondents, as well as the Commission's staff. The provisions of the order and the allegations of the complaint, it is plain, do not encompass phonograph needles consisting wholly or in part of foreign components which are assembled domestically. The terms of the order, therefore, do not extend to phonograph needles in that category.

In connection with paragraph three of the order, the Commission has determined that in the light of respondents' practical business problems the public interest will be adequately protected in this instance by a legend on wall charts, catalogs, or other display or point of sale material stating "Needles Of Foreign Origin Are So Desig-

nated On The Individual Packages" as long as the country of origin is accurately and clearly disclosed on the individual packages of respondents' needles. Accordingly,

It is ordered, That respondents' request for modification of the order be, and it hereby is, denied.

It is further ordered, That the provisions contained in paragraphs one, two, and three of the order to cease and desist are not to be construed as encompassing phonograph needles assembled domestically but consisting wholly or in part of foreign components.

It is further ordered, That a statement on respondents' display or point of sale material that "Needles Of Foreign Origin Are So Designated On The Individual Packages" shall be construed as in compliance with the provisions of paragraph three of the order, provided that the country of origin of needles imported by respondents is accurately and clearly described on the individual packages.

WILLIAM H. RORER, INC.

Docket 8599. Order, Mar. 5, 1964

Order denying respondent's motion relative to the production of staff memorandum to the Commission.

ORDER DENYING MOTION AND DISMISSING REQUEST FOR PERMISSION TO
FILE INTERLOCUTORY APPEAL

Part 2 of the Commission's Procedures and Rules of Practice (effective August 1, 1963) establishes a consent order procedure whereby cases can be settled in advance of issuance of the Commission's complaint. Pursuant to this procedure, the Commission served the respondent with notice of its determination to issue a complaint, along with a copy of the proposed complaint and form of order. Consent negotiations ensued but were unsuccessful, and the Commission subsequently issued its formal complaint. The matter is now in the hearing stage.

On January 3, 1964, respondent made a motion to the hearing examiner requesting that a memorandum which had been submitted to the Commission by the Commission's staff in the course of the consent negotiations be turned over to respondent. The examiner denied the motion on the ground that "the motion is not one in the present proceeding before him" within the meaning of Section 3.6(a) of the Commission's Procedures and Rules of Practice. However, the examiner indicated that in his opinion respondent was not entitled to production of the memorandum. On February 6, 1964, respondent filed with the Commission a request pursuant to Section 3.20 of the Commission's Procedures and Rules of Practice for permission to file an

interlocutory appeal from the examiner's ruling, and on February 12 complaint counsel filed a statement in opposition thereto.

(1) The examiner erred in his ruling that respondent's motion was not one made in the proceeding before him. Rule 3.6(a) provides that "During the time a proceeding is before a hearing examiner, all motions therein . . . shall be addressed to the hearing examiner, and if within his authority shall be ruled upon by him. Any motion upon which the hearing examiner has no authority to rule shall be certified by him to the Commission with his recommendation." Since respondent's motion was made during the pendency of the proceeding before the examiner, it was incumbent upon the latter either to rule upon it or certify it to the Commission with his recommendation. He did neither.

(2) Considering respondent's motion as properly before the Commission, as respondent asks us to consider it, we agree with the examiner that it should be denied. Nothing in the Administrative Procedure Act or in the basic principles of fair procedure precludes the Commission from creating and following a procedure for settling disputes without recourse to adjudication. Consent negotiations are not a stage in an adjudication but a means of establishing whether adjudication can be avoided altogether. Like investigations, consent negotiations are distinct from the adjudicative process and hence are not governed by the standards which control adjudicative procedure.

(3) Our conclusion that respondent's motion, which is the basis of its request for leave to file an interlocutory appeal, must be denied moots respondent's request. Accordingly,

It is ordered, (1) That respondent's motion to compel service of staff memorandum be, and it hereby is, denied; and (2) that respondent's request for leave to file interlocutory appeal be, and it hereby is, dismissed.

FRITO-LAY, INC.

Docket 8606. Order, Mar. 13, 1964

Order returning to hearing examiner his request to hold hearings in eight different cities.

ORDER RULING UPON CERTIFICATE OF NECESSITY

By certificate of necessity filed on February 27, 1964, the hearing examiner in the above-captioned proceeding requests the Commission to permit hearings in this matter to be held in eight cities with "reasonable intervals" between hearings in these locations and between complaint counsel's case and respondent's case.

Section 3.16(d) of the Commission's Procedures and Rules of Practice provides:

Hearings shall proceed with all reasonable expedition. Unless the Commission otherwise orders upon a certificate of necessity therefor by the hearing examiner, all hearings shall be held at one place and shall continue without suspension until concluded. (This does not bar overnight, week end, or holiday recesses, or other brief intervals of the sort normally involved in judicial proceedings.)

This Rule expresses the determination of the Commission that the public interest in having fair, orderly and expeditious adjudicative proceedings is normally best served by a requirement of continuous hearings to be held in one place. This is not an inflexible principle, and exceptions will be allowed upon a showing that the public interest would in a particular case be better served by deviating from the prescribed procedure. Such deviation will not be allowed by the Commission merely upon request therefor without supporting reasons, even if the parties to the proceeding are willing to conduct it without regard to the requirements of Section 3.16(d).

In the present case, the examiner makes his request to hold hearings in more than one city and non-continuously on the basis of complaint counsel's motion filed February 10, 1964, and respondent's reply thereto filed February 24. An examination of these motions, however, discloses that neither contains any supporting reasons, except in the most general and purely conclusory terms, for the requested departures from the Section 3.16(d) procedure. Nor does the examiner's certificate of necessity furnish any concrete reasons why the Commission should waive the requirements of the Rule. Moreover, the Commission is given no indication as to the length of the "reasonable intervals" requested in the certificate.

For the foregoing reasons, the Commission lacks any basis in the papers before it for making an informed determination as to whether the public interest justifies the requests made in the certificate of necessity. Accordingly,

It is ordered, That this matter be, and it hereby is, returned to the hearing examiner for reconsideration in light of this order.

Commissioner MacIntyre not concurring.

CHESEBROUGH-POND'S, INC.

Docket 8491. Order, Mar. 13, 1964

Order denying respondent's petition to rescind Commission's order permitting filing of consolidated briefs.

ORDER DENYING PETITION TO RESCIND COMMISSION ORDER PERMITTING FILING OF CONSOLIDATED BRIEFS

On February 20, 1964, complaint counsel in the above-captioned and 13 related proceedings filed a motion requesting permission to file

consolidated briefs therein, on the ground that the complaints in all of these proceedings involved payments, allegedly in violation of the Clayton Act, as amended, to the identical parties. This motion was granted by the Commission by order of February 26, 1964. On February 28, the present respondent filed a statement in opposition to complaint counsel's motion; on March 4, respondents in Dockets 8507 and 8508 filed a joint statement in opposition; and on March 5, respondent in Docket 8492 filed a statement in opposition. On March 6, the present respondent filed a petition to rescind the Commission's order of February 26, contending that the Commission acted improperly in granting complaint counsel's motion *ex parte*.

The Commission has considered the arguments of respondents in opposition to complaint counsel's motion without according any weight to the Commission's prior action of February 26. The basic contention made in these statements is that the factual and legal issues differ considerably from case to case in this series of proceedings, and that therefore the filing of consolidated briefs by complaint counsel is likely to confuse the issues to the prejudice of individual respondents. This contention is without merit. Respondents are not obliged to file consolidated briefs. Each respondent has ample opportunity to detail, in its brief, the factors which may differentiate its case from that of the other respondents in this series of cases. Respondents thus are not prejudiced by complaint counsel's filing consolidated briefs.

For these reasons, the Commission, believing that its order of February 26 was correct, adheres to that order. Accordingly,

It is ordered, That respondent's petition to rescind the Commission's order of February 26, 1964, be, and it hereby is, denied.

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