

It is further ordered, that enforcement of the cease and desist order as to respondent James V. Cariddi and his duty to comply therewith be, and it hereby is, suspended until further order of the Commission. Commissioner Reilly not participating.

IN THE MATTER OF
SANTA'S OFFICIAL TOY PREVUE, INC., ET AL.

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

*Docket 8231. Complaint, Dec. 22, 1960—Decision, Apr. 3, 1964**

Consent order requiring a Philadelphia association of toy jobbers engaged in publishing and distributing annually to retail outlets throughout the United States catalogs illustrating toys, to cease inducing or receiving from toy suppliers payments for advertising in such catalogs furnished by respondents in connection with the sale of the suppliers' products, when they knew or should have known, that proportionally equal payments were not made available to all the suppliers' customers competing with respondents.

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

*Reported as modified by order of Commission dated July 9, 1964.

Complaint

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Trade Commission, having reason to believe that the parties respondent named in the caption hereof 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 as follows:

PARAGRAPH 1. Respondent Santa's Official Toy Prevue, Inc., is a corporation organized and doing business under the laws of the State of Pennsylvania, with its principal office and place of business located at 319 North Eleventh Street, Philadelphia 7, Pennsylvania. The stock of this corporate respondent is owned by individual respondents David W. Ring and Maurice W. Ring. Individual respondents are the officers and directors of respondent Santa's Official Toy Prevue, Inc. They direct, formulate and control the acts, practices and policies of Santa's Official Toy Prevue, Inc.

Individual respondents David W. Ring and Maurice W. Ring, in addition to owning the stock of Santa's Official Toy Prevue, Inc., also own the stock and control the acts, practices and policies of Ring Brothers, Inc., a wholesaler of toy products named as a respondent in the caption hereof.

Respondent Ring Brothers, Inc., is a corporation organized and doing business under the laws of the State of Pennsylvania, with its principal office and place of business located at 319 N. Eleventh Street, Philadelphia 7, Pennsylvania.

Respondent ABC Toy Company is a corporation organized and doing business under the laws of the State of Pennsylvania, with its principal office and place of business located at 1421 Pennsylvania Avenue, Pittsburgh, Pennsylvania.

Respondents Morton Spolter and Arnold Spolter are copartners, doing business as Armor Sales Company, with their principal office and place of business located at 580 Kerr Street, Columbus, Ohio.

Respondent Mrs. Howard Armstrong is an individual doing business as American Art Products Company, with her principal office and place of business located at 210 S. Pennsylvania Street, Indianapolis 4, Indiana.

Respondents Albert Baldwin, Sr., and D.B.S. Baldwin are copartners, doing business as Baldwin Supply Company, with their principal office and place of business located at 513 South Peters Street, New Orleans 12, Louisiana.

Respondent Beacon Sales Co. is a corporation organized and doing business under the laws of the State of Florida, with its principal office and place of business located at 1080 East Fifteenth Street, Hialeah, Florida.

Respondent Vincent D. Botto is an individual doing business as V. F. Botto & Company, with his principal office and place of business located at 124 North Court Avenue, Memphis 3, Tennessee.

Respondents Edward Feldman, Louis Feldman and Philip Feldman are copartners, doing business as Capitol Distributors, with their principal office and place of business located at 57 Jackson Street, Worcester, Massachusetts.

Respondent Frank Marescalco is an individual doing business as Central Distributing Toy Co., with his principal office and place of business located at 6721 28th Avenue, Kenosha, Wisconsin.

Respondent Joseph F. Crans is an individual doing business as Crans Supply Co., with his principal office and place of business located at 201 Twentieth Street, Huntington, West Virginia.

Respondent Samuel Link is an individual doing business as E&S Merchandising Co., with his principal office and place of business located at 276 Hudson Avenue, Albany 10, New York.

Respondent Funtime Distributors, Inc., is a corporation organized and doing business under the laws of the State of New Jersey, with its principal office and place of business located at 578 East Nineteenth Street, Paterson, New Jersey.

Respondent Halco Sales Co., Inc., is a corporation organized and doing business under the laws of the State of Massachusetts, with its principal office and place of business located at 208 Camden Street, Boston 18, Massachusetts.

Respondent James M. Kidd is an individual doing business as Kidd Wholesale Company, with his principal office and place of business located at North Cobb Street, Milledgeville, Georgia.

Respondent M. Maurice Kind is an individual doing business as M. Maurice Kind Novelty Co., with his principal office and place of business located at 108 First Avenue, Seattle, Washington.

Respondent Long-Lewis Hardware Company is a corporation organized and doing business under the laws of the State of Alabama, with its principal office and place of business located at 2000-2030 Second Avenue, North Bessemer, Alabama.

Respondent Maines Candy and Paper Company, Inc., is a corporation organized and doing business under the laws of the State of New York, with its principal office and place of business located at 28-36 Sherman Place, Binghamton, New York.

Respondents Max Pikelny, Leo Pikelny and Seymour Pikelny are copartners, doing business as Mid-West Briar Pipe Co., with their principal office and place of business located at 2727-29 Lincoln Avenue, Chicago 14, Illinois.

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Respondent Mary Milner is an individual doing business as David Milner & Co., with her principal office and place of business located at 121 South Street, Baltimore 2, Maryland.

Respondent Ari Newman is an individual doing business as Newman's Wholesale Distributors, with his principal office and place of business located at 8 Milk Street, Portland, Maine.

Respondent Onondaga Hobby & Toy Co., Inc., is a corporation organized and doing business under the laws of the State of New York, with its principal office and place of business located at 507 E. Water Street, Syracuse 2, New York.

Respondent N. D. Orum Company is a corporation organized and doing business under the laws of the State of Wisconsin, with its principal office and place of business located at 407 North Water Street, Milwaukee 2, Wisconsin.

Respondent Meyer Burg and Morris Belausky are copartners, doing business as Paramount Merchandise Co., with their principal office and place of business located at 932 Broadway, New York, New York.

Respondent Public Service Paper Company, Inc., is a corporation organized and doing business under the laws of the State of Maine, with its principal office and place of business located at 47 Maple Street, Burlington, Vermont.

Respondent Louis M. Saunders Co., Inc., is a corporation organized and doing business under the laws of the State of Virginia, with its principal office and place of business located at 1160 Tidewater Drive, Norfolk, Virginia.

S. E. Sanders Company, Incorporated, is a corporation organized and doing business under the laws of the State of North Carolina, with its principal office and place of business located at 518 Kenilworth Road, Asheville, North Carolina.

Respondents Myer Mont, and Janet Mont are copartners, doing business as Schenectady Paper & Toy Co., with their principal office and place of business located at 16-18 Broadway, Schenectady, New York.

Respondent Shepherd Distr's and Sales Corp., is a corporation organized and doing business under the laws of the State of New York, with its principal office and place of business located at 302-310 Elton Street, Brooklyn 8, New York.

Respondent Standard Paper & Merchandise Company Incorporated, is a corporation organized and doing business under the laws of the State of Massachusetts, with its principal office and place of business located at 42 Waltham Avenue, Springfield, Massachusetts.

Respondent Tak-A-Toy Corp. of Washington, is a corporation organized and doing business under the laws of the District of Co-

lumbia, with its principal office and place of business located at 920 Girard Street, N.E., Washington, D.C.

Respondent Irving I. Bimstein, Sr., and Mrs. Irving I. Bimstein, Sr., are copartners, doing business as Tip Top Merchandise Co., with their principal office and place of business located at 313-2nd Avenue, No., Nashville 3, Tennessee.

Respondent Toy Novelty Co., is a corporation organized and doing business under the laws of the State of New York, with its principal office and place of business located at 3455 White Plains Road, Bronx 67, New York.

Respondents E. D. Westerman, and R. H. Westerman, are copartners, doing business as Uneeda Toy Company, with their principal office and place of business located at 395 Ocean Avenue, Jersey City 5, New Jersey.

Respondent E. Winick & Co., Inc., is a corporation organized and doing business under the laws of the State of New York, with its principal office and place of business located at 3455 White Plains Road, Bronx 67, New York.

Respondent Seymour Lieberman is an individual doing business as Seymour Lee Co., with his principal office and place of business located at Town Dock Road, New Rochelle, New York.

Respondent L. D. Friedland is an individual doing business as L. D. Friedland Co., with his principal office and place of business located at 328-334 Marietta Street, N.W., Atlanta 2, Georgia.

All of the foregoing corporate, partnership and single proprietorship respondents have been, and are now, members of respondent Santa's Official Toy Prevue, Inc.

PAR. 2. Santa's Official Toy Prevue, Inc., is an association composed of toy wholesale distributors or jobbers, named herein as corporate, partnership and single proprietorship respondents, who sell and distribute their toy products to retail outlets located in various States of the United States. Respondent Santa's Official Toy Prevue, Inc., has been engaged, and is presently engaged, in the business of publishing and distributing annually on behalf of the wholesaler members catalogs illustrating toys. The catalogs are published and distributed under the title "Santa's Official Toy Prevue." Various manufacturers of toys have been and are now advertising their toys in said catalogs. Respondent members of respondent Santa's Official Toy Prevue, Inc., have sold and distributed and presently sell and distribute, their catalogs to retail outlets located throughout the United States.

The wholesaler members of corporate respondent Santa's Official Toy Prevue, Inc., by a majority vote select both the advertisers and the toy products that are to be illustrated in the catalogs published by said corporate respondent.

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PAR. 3. Respondents, in the course and conduct of their businesses, have engaged, and are presently engaged, in commerce, as "commerce" is defined in the Federal Trade Commission Act. Respondents purchase their products from many toy suppliers located throughout the various States of the United States and cause such products to be transported from various States in the United States to other States for distribution and sale by respondents to retail outlets. There is now, and has been, a constant current of trade in commerce in said products between and among the various States of the United States.

In addition, respondents published, or caused to be published, toy catalogs which they sell and distribute to retail outlets located in various States of the United States.

PAR. 4. In the course and conduct of their businesses in commerce, said respondents have been, and are now, in competition with other corporations, partnerships and individuals in the sale and distribution of toy catalogs to retail outlets, and in the sale and distribution of toy products to said retail outlets.

PAR. 5. Respondents, in the course and conduct of their businesses in commerce, knowingly induced or received, or contracted for the payment of promotional payments or allowances from various toy suppliers which were not offered or made available on proportionally equal terms to all other customers of such suppliers competing with respondents in the distribution of said suppliers' toy products.

Respondents, as publishers and distributors of toy catalogs induced or received payments or allowances from the aforesaid suppliers in connection with the promotion and advertising of their products in respondents' catalogs. Respondents knew, or should have known, that said payments or allowances which they induced or received were not granted or offered on proportionally equal terms to all other of said suppliers' customers competing with respondents in the distribution of said suppliers' products. Said payments were made to Ring Brothers, Inc., acting on behalf of respondent association. The payments to said association for 1959, exceeded \$57,000. Among the toy suppliers granting promotional payments or allowances to respondents in 1959 were:

Toy suppliers:	Approximate payments granted to respondents
Mattel, Inc.-----	\$825
Aurora Plastic Corp.-----	550
Kohner Bros., Inc.-----	550
Halsam Products Co.-----	1,100
Porter Chemical Co.-----	825
Revell, Inc.-----	550
Multiple Products Corp.-----	550

PAR. 6. The acts and practices of respondents, as hereinbefore alleged, of knowingly inducing or receiving special promotional payments or allowances from their suppliers which were not made available by said suppliers on proportionally equal terms to respondents' competitors, are all to the prejudice and injury of competitors of respondents and of the public; have the tendency and effect of obstructing, injuring and preventing competition in the sale and distribution of toy products, and have the tendency to obstruct and restrain and have obstructed and restrained commerce in such merchandise, and constitute unfair methods of competition in commerce and unfair acts and practices in commerce within the intent and meaning and in violation of Section 5 of the Federal Trade Commission Act.

Mr. Jerome Garfinkel counsel for the complaint.

Mr. Edwin P. Rome counsel for respondents.

INITIAL DECISION BY JOSEPH W. KAUFMAN, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on December 22, 1960, charging them with violation of Section 5 of the Federal Trade Commission Act in that they knowingly induced or received promotional payments in commerce from various toy suppliers, for toy catalog advertisements, not made available on proportionally equal terms to other customers and therefore unlawful for this and other reasons.

There was submitted to the hearing examiner a consent agreement, dated April 25, 1962, which was signed by all but four respondents and by counsel for both sides, and approved by the Bureau of Restraining of Trade. The agreement provided for the entry of a consent order in the wording and form set forth therein.

Accompanying the submission of the agreements to the hearing examiner, there was an application signed by counsel supporting the complaint requesting the hearing examiner to accept the agreement despite late filing or to certify to the Commission the question of excusing lateness of filing. Under the Rules, the agreements should have been filed prior to September 1, 1961.

On certification by the hearing examiner, the Commission, by order dated May 14, 1962, excused lateness of filing and referred the matter back to the hearing examiner for consideration of the consent agreement.

Under the terms of the agreements, the signatory respondents admit the jurisdictional facts alleged in the complaint. They waive any further procedural steps, the making of findings of fact and conclusions of law, and the right of judicial review or other challenge of the validity of the consent order. It is also agreed that the record shall

consist solely of the complaint and the agreement, but that the agreement is for settlement purposes only and does not constitute an admission by respondents of violation. It is further agreed that the order may be entered without further notice, and have the same force and effect and shall become final and may be altered, modified or set aside as provided by statute for other orders. The complaint may be used in construing the terms of the order.

The following respondents are the only ones who are not parties to the consent agreement:

ABC Toy Company, a corporation,
Morton Spolter and Arnold Spolter, d/b/a Armor Sales Company,
E. Winick & Co., Inc.

The agreement states that these respondents are out of business and that the complaint should be dismissed as against them.

The hearing examiner finds that said agreement includes all of the provisions required by § 3.3 of the Commission Rules, which contain substantially the same provisions, pertinent here, as § 3.25(b) of the old Rules of the Commission.

In addition, the agreement contains certain permissive provisions set forth in the Rules.

Having considered said agreement, including the proposed order, and being of the opinion that it provides an appropriate basis for settlement and disposition of this proceeding the hearing examiner accepts the agreement but directs that it shall not become part of the official record until it becomes a part of the decision of the Commission.

The following jurisdictional findings are hereby made:

1. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents.
2. The following facts relate to respondents in this case.

Respondent Santa's Official Toy Prevue, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located at 319 North Eleventh Street, Philadelphia 7, Pennsylvania.

Respondent David W. Ring is an individual and an officer and director of Santa's Official Toy Prevue, Inc., with his principal office and place of business located at 319 North Eleventh Street, Philadelphia 7, Pennsylvania.

Respondent Maurice W. Ring is an individual and an officer and director of Santa's Official Toy Prevue, Inc., with his principal office and place of business located at 319 North Eleventh Street, Philadelphia 7, Pennsylvania.

Respondent Ring Brothers, Inc., is a corporation existing and doing business under the laws of the State of Pennsylvania, with its principal office and place of business located at 319 North Eleventh Street, Philadelphia 7, Pennsylvania.

Respondent Mrs. Howard Armstrong is an individual doing business as American Art Products Company, with her principal office and place of business located at 210 S. Pennsylvania Street, Indianapolis 4, Indiana.

Respondents Albert Baldwin, Sr., and D. B. S. Baldwin are copartners doing business as Baldwin Supply Company, with their principal office and place of business located at 513 South Peters Street, New Orleans 12, Louisiana.

Respondent Beacon Sales Co. is a corporation existing and doing business under the laws of the State of Florida, with its principal office and place of business located at 1080 East Fifteenth Street, Hialeah, Florida.

Respondent Vincent D. Botto is an individual doing business as V. F. Botto & Company, with his principal office and place of business located at 124 North Court Avenue, Memphis 3, Tennessee.

Respondents Edward Feldman, Louis Feldman and Philip Feldman are copartners doing business as Capitol Distributors, with their principal office and place of business located at 57 Jackson Street, Worcester, Massachusetts.

Respondent Frank Marescalco is an individual doing business as Central Distributing Toy Co., with his principal office and place of business located at 6721 28th Avenue, Kenosha, Wisconsin.

Respondent Joseph F. Crans is an individual doing business as Crans Supply Co., with his principal office and place of business located at 201 Twentieth Street, Huntington, West Virginia.

Respondent Samuel Link is an individual doing business as E & S Merchandising Co., with his principal office and place of business located at 276 Hudson Avenue, Albany 10, New York.

Respondent Funtime Distributors, Inc., is a corporation existing and doing business under the laws of the State of New Jersey, with its principal office and place of business located at 578 East Nineteenth Street, Paterson, New Jersey.

Respondent Halco Sales Co., Inc., is a corporation existing and doing business under the laws of the State of Massachusetts, with its principal office and place of business located at 208 Camden Street, Boston 18, Massachusetts.

Respondent James M. Kidd is an individual doing business as Kidd Wholesale Company, with his principal office and place of business located at North Cobb Street, Milledgeville, Georgia.

Respondent M. Maurice Kind is an individual doing business as M. Maurice Kind Novelty Co., with his principal office and place of business located at 108 First Avenue, Seattle, Washington.

Respondent Long-Lewis Hardware Company is a corporation existing and doing business under the laws of the State of Alabama, with its principal office and place of business located at 2000-2030 Second Avenue, North Bessemer, Alabama.

Respondent Maines Candy and Paper Company, Inc., is a corporation existing and doing business under the laws of the State of New York, with its principal office and place of business located at 28-36 Sherman Place, Binghamton, New York.

Respondents Max Pikelny, Leo Pikelny, and Seymour Pikelny are copartners doing business as Mid-West Briar Pipe Co., with their principal office and place of business located at 2727-29 Lincoln Avenue, Chicago 14, Illinois.

Respondent Mary Milner is an individual doing business as David Milner & Co., with her principal office and place of business located at 121 South Street, Baltimore 2, Maryland.

Respondent Ari Newman is an individual doing business as Newman's Wholesale Distributors, with his principal office and place of business located at 8 Milk Street, Portland, Maine.

Respondent Onondaga Hobby & Toy Co., Inc., is a corporation existing and doing business under the laws of the State of New York, with its principal office and place of business located at 507 East Water Street, Syracuse 2, New York.

Respondent M. D. Orum Company (erroneously described in the complaint as N. D. Orum Company) is a corporation existing and doing business under the laws of the State of Wisconsin, with its principal office and place of business located at 407 North Water Street, Milwaukee 2, Wisconsin.

Respondents Meyer Burg and Morris Belausky are copartners doing business as Paramount Merchandise Co., with their principal office and place of business located at 932 Broadway, New York, New York.

Respondent Public Service Paper Company, Inc., is a corporation existing and doing business under the laws of the State of Maine, with its principal office and place of business located at 47 Maple Street, Burlington, Vermont.

Respondent Louis M. Saunders Co., Inc., is a corporation existing and doing business under the laws of the State of Virginia, with its principal office and place of business located at 1160 Tidewater Drive, Norfolk, Virginia.

Respondent S. E. Sanders Company, Incorporated, is a corporation existing and doing business under the laws of the State of North

Carolina, with its principal office and place of business located at 518 Kenilworth Road, Asheville, North Carolina.

Respondents Myer Mont and Janet Mont are copartners doing business as Schenectady Paper & Toy Co., with their principal office and place of business located at 16-18 Broadway, Schenectady, New York.

Respondent Shepherd Distr's and Sales Corp. is a corporation existing and doing business under the laws of the State of New York, with its principal office and place of business located at 302-310 Elton Street, Brooklyn 8, New York.

Respondent Standard Paper & Merchandise Company Incorporated, is a corporation existing and doing business under the laws of the State of Massachusetts, with its principal office and place of business located at 42 Waltham Avenue, Springfield, Massachusetts.

Respondent Tak-A-Toy Corp. of Washington is a corporation existing and doing business under the laws of the District of Columbia, with its principal office and place of business located at 920 Girard Street, N.E., Washington, D.C.

Respondents Irving I. Bimstein, Sr., and Mrs. Irving I. Bimstein, Sr., are copartners doing business as Tip Top Merchandise Co., with their principal office and place of business located at 313-2d Avenue, No., Nashville 3, Tennessee.

Respondent Toy Novelty Co. is a corporation existing and doing business under the laws of the State of New York, with its principal office and place of business located at 3522 Webster Avenue, Bronx 67, New York.

Respondents E. D. Westerman and R. H. Westerman are copartners doing business as Uneeda Toy Company, with their principal office and place of business located at 395 Ocean Avenue, Jersey City 5, New Jersey.

Respondent Seymour Lieberman is an individual doing business as Seymour Lee Co., with his principal office and place of business located at Town Dock Road, New Rochelle, New York.

Respondent L. D. Friedland is an individual doing business as L. D. Friedland Co., with his principal office and place of business located at 328-334 Marietta Street, N.W., Atlanta 2, Georgia.

The following order is hereby made:

ORDER

It is ordered, That respondents Santa's Official Toy Prevue, Inc., Ring Brothers, Inc., Beacon Sales Co., Funtime Distributors, Inc., Halco Sales Co., Inc., Long-Lewis Hardware Company, Maines Candy and Paper Company, Inc., Onondaga Hobby & Toy Co., Inc., M. D. Orum Company, Public Service Paper Company, Inc., Louis M.

Saunders Co., Inc., S. E. Sanders Company, Incorporated, Shepherd Distr's and Sales Corp., Standard Paper & Merchandise Company Incorporated, Tak-A-Toy Corp. of Washington, Toy Novelty Co., corporations, their officers and directors; individual respondents David W. Ring, Maurice W. Ring, Mrs. Howard Armstrong, Albert Baldwin, Sr., D.B.S. Baldwin, Vincent D. Botto, Edward Feldman, Louis Feldman, Philip Feldman, Frank Marescalco, Joseph F. Crans, Samuel Link, James M. Kidd, M. Maurice Kind, Max Pikelny, Leo Pikelny, Seymour Pikelny, Mary Milner, Ari Newman, Meyer Burg, Morris Belausky, Myer Mont, Janet Mont, Irving I. Bimstein, Sr., Mrs. Irving I. Bimstein, Sr., E. D. Westerman, R. H. Westerman, Seymour Lieberman, and L. D. Friedland; and their respective representatives, agents and employees directly or through any corporate or other device in or in connection with any purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Inducing, receiving or contracting for the receipt of anything of value as payment for or in consideration for advertising or other services or facilities furnished by or through respondents in connection with the processing, handling, sale, or offering for sale of toy, game, and hobby products manufactured, sold, or offered for sale by the supplier, when the respective respondents know or should know that such payment or consideration is not made available by such supplier on proportionally equal terms to all its other customers competing with the respective respondents in the distribution of such products.

It is further ordered, That the complaint be dismissed with respect to ABC Toy Company, Morton Spolter, Arnold Spolter, and E. Winick & Co., Inc.

DECISION OF THE COMMISSION AND ORDER TO FILE
REPORT OF COMPLIANCE

APRIL 3, 1964

On May 31, 1962, the examiner filed his initial decision in this matter, accepting the consent agreement negotiated between complaint counsel and respondents. On June 26, 1962, the Commission placed this case on its own docket for review. The Commission has determined that the order contained in the initial decision adequately disposes of the allegations of the complaint. The parties to the consent agreement, however, agreed further that:

"In the event the Commission should issue any cease and desist order in Dockets 7971, 8100, 8240, 8255, or 8259 more limited in

scope than the order provided for in this agreement, the Bureau of Restraint of Trade agrees that it will join in a motion by respondents to the Commission requesting that respondents' order be modified in accordance with such more limited cease and desist order."

Accordingly,

It is ordered, That the initial decision of the examiner, filed May 31, 1962, be, and it hereby is, adopted as the decision of the Commission.

It is further ordered, That respondents named in the above-captioned proceeding, with the exception of ABC Toy Company, Morton Spolter, Arnold Spolter, and E. Winick & Co., Inc., 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.

It is further ordered, That respondents, with the exception of ABC Toy Company, Morton Spolter, Arnold Spolter, and E. Winick & Co., Inc., if they so desire, may, within sixty (60) days after service of this order upon them, request modification of the order in the light of the Commission's decisions in *Individualized Catalogues, Inc., et al.*, Docket No. 7971, *Santa's Playthings, Inc., et al.*, Docket No. 8259, *ATD Catalogs, Inc., et al.*, Docket No. 8100, and *Billy & Ruth Promotion, Inc., et al.*, Docket No. 8240. Such a request, if made, will stay the time within which respondents would otherwise be required to file a report of compliance.

Commissioner Reilly not participating.

ORDER MODIFYING CONSENT ORDER

JULY 9, 1964

On June 10, 1964, the respondents in this proceeding, with the exception of ABC Toy Company, Morton Spolter, Arnold Spolter and E. Winick & Co., Inc., filed a motion requesting modification of their consent order pursuant to the authorization granted by the Commission's order of April 3, 1964 [p. 140 herein]. The Bureau of Restraint of Trade has joined in respondents' motion. The Commission has determined the request should be granted. Accordingly,

It is ordered, That the consent order in this proceeding be, and it hereby is, modified to read as follows:

It is ordered, That respondents Santa's Official Toy Prevue, Inc., Ring Brothers, Inc., Beacon Sales Co., Funtime Distributors, Inc., Halco Sales Co., Inc., Long-Lewis Hardware Company, Maines Candy and Paper Company, Inc., Onondaga Hobby & Toy Co., Inc., M. D. Orum Company, Public Service Paper Company, Inc.,

ORDER MODIFYING CONSENT ORDER.

65 F.T.C.

Louis M. Saunders Co., Inc., S. E. Sanders Company, Incorporated, Shepher Distr's and Sales Corp., Standard Paper & Merchandise Company Incorporated, Tak-A-Toy Corp. of Washington, Toy Novelty Co., corporations, their officers and directors; individual respondents David W. Ring, Maurice W. Ring, Mrs. Howard Armstrong, Albert Baldwin, Sr., D. B. S. Baldwin, Vincent D. Botto, Edward Feldman, Louis Feldman, Philip Feldman, Frank Marescalco, Joseph F. Crans, Samuel Link, James M. Kidd, M. Maurice Kind, Max Pikelny, Leo Pikelny, Seymour Pikelny, Mary Milner, Ari Newman, Meyer Burg, Morris Belausky, Myer Mont, Janet Mont, Irving I. Bimstein, Sr., Mrs. Irving I. Bimstein, Sr., E. D. Westerman, R. H. Westerman, Seymour Lieberman, and L. D. Friedland; and their respective representatives, agents and employees directly or through any corporate or other device in or in connection with any purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Inducing and receiving, or receiving, the payment of anything of value to or for the benefit of the respondents, or any of them, as compensation or in consideration for any services or facilities consisting of advertising or other publicity furnished by or through respondents, or any of them, in a toy catalog, handbill, circular, or any other printed publication, serving the purpose of a buying guide, distributed, directly or through any corporate or other device, by said respondents, or any of them, in connection with the processing, handling, sale or offering for sale, of any toy, game or hobby products manufactured, sold, or offered for sale by the manufacturer or supplier, when the said respondents know or should know that such payment or consideration is not made available on proportionally equal terms to all other customers competing with said respondents in the distribution of such toy, game or hobby products.

It is further ordered, That the aforesaid respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Complaint

IN THE MATTER OF

BILLY & RUTH PROMOTION, INC., ET AL.

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

Docket 8240. Complaint, Dec. 28, 1960—Decision, Apr. 3, 1964

Order requiring a Philadelphia association of toy wholesalers and its subsidiary which published and distributed to retail outlets at cost an annual toy catalog, to cease inducing and receiving from suppliers payments for advertising in a toy catalog or other publication in connection with the sale of the suppliers' products, when respondents knew, or should have known, that proportionally equal payments were not available to all the suppliers' other customers competing with respondents.

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 the parties respondent named in the caption hereof 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 as follows:

PARAGRAPH 1. Respondent Billy & Ruth Promotion, Inc., is a corporation organized and doing business under the laws of the State of Pennsylvania, with its principal office and place of business located at 5th and Bristol Streets, Philadelphia, Pennsylvania. The stock of this corporate respondent is owned by Supplee-Biddle-Steltz Company, a wholesaler of toy products named as a respondent in the caption hereof.

Individual respondents William George Steltz, Jr., J. Wilson Vandergrift, Floyd F. Trader, Roy G. Geppinger and Lawrence S. Adams are the officers of respondent Billy & Ruth Promotions, Inc. The address of these individual respondents is the same as corporate respondent Billy & Ruth Promotion, Inc. They direct, formulate and control the acts, practices and policies of Billy & Ruth Promotion, Inc.

Respondent Supplee-Biddle-Steltz Company is a corporation organized and doing business under the laws of the State of Pennsylvania, with its principal office and place of business located at 5th and Bristol Streets, Philadelphia, Pennsylvania.

Respondent Albany Hardware & Iron Co., Inc., is a corporation organized and doing business under the laws of the State of New York, with its principal office and place of business located at Broadway & Arch Streets, Albany 2, New York.