

Complaint

73 F.T.C.

IN THE MATTER OF

PUNCH CARD MACHINE TRAINING SERVICE, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT*Docket C-1348. Complaint, June 14, 1968—Decision, June 14, 1968*

Consent order requiring two affiliated business machine schools located in Missouri and Tennessee to cease using deceptive offers of employment, exaggerating the demand for its graduates, misrepresenting that enrollments are limited, that lack of a high school diploma is no handicap, and that refunds will be made.

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 Punch Card Machine Training Service, Inc., a corporation, Punch Card Training of Memphis, Inc., a corporation, and Walter G. Ottman, Bette K. Ottman, Mary A. Vonck and Leona Thelen, individually and as officers of said 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 Punch Card Machine Training Service, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its principal place of business located at 318 East 10th Street, Kansas City, Missouri.

Punch Card Training of Memphis, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Tennessee, with its principal place of business located at 627 Adams Street, Memphis, Tennessee.

Respondents Walter G. Ottman, Bette K. Ottman, Mary A. Vonck and Leona Thelen are officers of the corporate respondents. They formulate, direct and control the acts, policies and practices of the corporate respondents, including the acts and practices hereinafter set forth. They each have an address at each of the corporate respondents' principal place of business.

The aforesaid respondents cooperate and act together in carrying out the acts and practices hereinafter set forth.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of

courses of instruction intended to prepare students thereof for employment as IBM key punch machine, IBM tabulation machine, and computer operators and programmers, along with other courses. Said courses are pursued by correspondence through the United States mail, as well as by resident training at the respondents' schools in Missouri and Tennessee.

PAR. 3. In the course and conduct of their business, respondents have caused their courses of study and instruction to be sent from their places of business, located in the States of Missouri and Tennessee, to, into and through States of the United States other than the State of origin, to purchasers thereof located in such other States. Respondents also utilize the services of salesmen who call on prospective purchasers of the courses of instruction located in States other than the States of Missouri and Tennessee. They maintain, and at all times mentioned herein have maintained, a substantial course of trade in said courses of study and instruction in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of courses of study and instruction of the same general kind and nature as those sold by the respondents.

PAR. 5. In the course and conduct of their business, as aforesaid, respondents have caused to be published in newspapers distributed through the United States mail and by other means to prospective purchasers in the several States in which respondents do business, advertisements in the "Help Wanted" columns of such newspapers stating "See IBM Training Opportunities on the Amusement Page," with a display advertisement on the entertainment page of such newspaper of which the following are typical and illustrative, but not all inclusive:

(a) WANTED! TRAINEES.

Men and Women are greatly needed now to train for interesting positions as:

Tabulator Operators.

Office Equipment, Wiring Specialist.

Key Punch Operators.

Office Automation, Equipment Operators.

IBM MACHINE TRAINING—Persons selected will be trained in a program which need not interfere with present job. If you qualify training can be financed. Write today for more information. Please include home phone number. JOB OPPORTUNITIES.

* * * * *

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(b) WANT A HIGH SALARY JOB?

IBM MACHINE TRAINING—needs men and women for:

Tabulating Operators.

Wiring Specialist.

Key Punch Operators.

Office Automation.

Keep your present job while you train for a better higher paid one. If you are selected and can qualify special financing can be arranged. * * *

(c) WANTED—TRAINEES IBM DATA PROCESSERS—Computer Programmers High Starting Salaries. Computer programmers, starting salaries \$550. Experienced operators up to \$20,000. Short training period. Must be high school graduate and train at own expense. Training will not interfere with present employment. Write, including phone number. PCMT Box No.

PAR. 6. By and through the use of the statements appearing in the advertisements referred to in Paragraph Five hereof, respondents have represented, and now represent, directly or by implication, that inquiries are solicited for the ultimate purpose of offering employment to qualified applicants, who will be trained to operate various IBM machines.

PAR. 7. In truth and in fact, inquiries are not solicited for the purpose of offering employment to qualified applicants, but for the sole purpose of obtaining leads to prospective purchasers of respondents' courses of instruction.

Therefore, the statements and representations as set forth in Paragraphs Five and Six hereof were, and are, false, misleading and deceptive.

PAR. 8. In the course and conduct of their business, as aforesaid, and for the purpose of inducing the sale of their courses of instruction, respondents have made certain statements and representations by means of brochures and promotional materials and by oral statements of their salesmen and representatives, directly or by implication, to prospective purchasers of said courses of instruction.

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

1. Respondents provide a placement service which will guarantee or assure to each graduate employment of the type and in the field for which trained by respondents.

2. Graduates of respondents' schools will be placed in jobs in the geographical area of their choice.

3. A great demand by employers exists for graduates of respondents' schools, which demand is greater than respondents' ability to supply graduates to fill such jobs.

4. Respondents accept as students only persons who will be able to complete successfully their course or courses of instruction and training and thereafter will be qualified for employment of the type and in the field for which trained by respondents.

5. Respondents only accept as students those persons who enroll at the time the offer is made, or respondents only accept as students a limited number of persons from a specific geographical area.

6. The lack of a high school education is not a handicap or impediment for a person to be able to take and complete respondents' courses of instruction and training and to obtain subsequent employment of the type and in the field for which trained by respondents.

7. Persons completing respondents' courses of instruction and training will thereby have the training and experience to enable them to earn starting salaries of \$400 to \$600 per month or various other high amounts in employment of the type and in the field for which trained by respondents.

8. Respondents' school at Kansas City, Missouri, occupies the entire building in which it is located as pictured in respondents' catalogs or other materials.

9. Respondents will refund sums paid by or on behalf of a student whenever the student, before graduation, withdraws due to illness or is involuntarily withdrawn due to inability to complete courses or, after graduation, fails to secure employment.

PAR. 9. In truth and in fact:

1. Such placement service as is provided by respondents does not in fact find for every graduate desiring such assistance employment of the type and in the field for which he had been trained. In actual practice, many graduates are not placed at all, and many others find jobs in the automation field, or in other lines of work, solely as a result of their own efforts.

2. Respondents place few, if any, graduates of their schools in jobs in the geographical area of their choice.

3. No great demand by employers exists for graduates of respondents' schools. Many of respondents' graduates are unable to obtain employment of the type and in the field for which trained by respondents and respondents have graduated more students than they have been able to place in jobs.

4. Respondents do accept persons who will be unable to complete successfully their course or courses of instruction and training, or who after completion will be unqualified for employment of the type and in the field for which trained by respondents.

5. Respondents do not only accept as students those persons who enroll at the time the offer is made, and respondents do not only accept as students a limited number of persons or a limited number of persons from a specific geographical area. Respondents accept applicants for admission to their schools at any and all times and they place no limitation thereon.

6. Persons without a high school education have found it a handicap and an impediment in comprehending and in completing respondents' courses of instruction and training, and in obtaining employment of the type and in the field for which trained by respondents.

7. Persons completing respondents' courses of instruction and training do not receive the training and experience required to enable them to earn starting salaries of \$400 to \$600 or more per month, or like amounts, but typically receive substantially less.

8. Respondents' school at Kansas City, Missouri, does not occupy the entire building as pictured in respondents' catalog or other material but actually occupies space of less than one floor therein.

9. Respondents do not refund sums paid by or on behalf of a student who, before graduation, withdraws due to illness or is involuntarily withdrawn due to inability to complete courses or, after graduation, fails to secure employment. Respondents' contracts provide that no refunds will be made by respondents.

Therefore, the statements and representations as set forth in Paragraph Eight hereof were, and are, false, misleading and deceptive.

PAR. 10. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices, has had, and now has, the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements and representations were, and are, true, and to induce a substantial number thereof to subscribe to, and purchase, respondents' said courses of study and instruction by reason of said erroneous and mistaken belief.

PAR. 11. The aforesaid acts and practices of respondents, as herein alleged, were, and are, all to the prejudice and injury of the public and of respondents' 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 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 the 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 admission by respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having considered the agreement and having accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of 30 days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Punch Card Machine Training Service, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at 318 East 10th Street, Kansas City, Missouri.

Respondent Punch Card Training of Memphis, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Tennessee, with its office and principal place of business located at 627 Adams Street, Memphis, Tennessee.

Respondents Walter G. Ottman, Bette K. Ottman, Mary A. Vonck and Leona Thelen are officers of said corporations and their addresses are the same as that of said corporations.

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 Punch Card Machine Training Service, Inc., a corporation, Punch Card Training of Memphis, Inc., a corporation, and their officers, and Walter G. Ottman, Bette K. Ottman, Mary A. Vonck and Leona Thelen, individually and as officers of said corporations, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of

courses of study, training and instruction in the operation of business machines or data processing machines or courses of study and instruction in any other subject or subjects, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that inquiries are solicited for the purpose of offering employment to qualified applicants: *Provided, however*, That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that a bona fide offer of employment was made as represented.

2. Representing, directly or by implication, that respondents' placement service will guarantee or assure the placement of graduates in jobs for which they have been trained, or will find them jobs in the geographical areas of their choice; or misrepresenting, in any manner, their ability or their facilities for assisting graduates of their courses in finding employment, or the assistance actually afforded by respondents to graduates in obtaining employment.

3. Representing, directly or by implication, that a great demand by employers exists for graduates of respondents' schools or that such demand is greater than respondents' ability to supply graduates to fill such jobs; or misrepresenting, in any manner, the employment opportunities for graduates of respondents' schools or courses: *Provided, however*, That nothing herein shall be construed to prohibit the respondents from truthfully and non-deceptively stating that there is a great demand for experienced tabulating machine personnel with high school education in the Kansas City area and surrounding territory.

4. Representing, directly or by implication, that respondents accept only qualified persons for their courses of instruction and training or are selective as to which applicants they accept: *Provided, however*, That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that a bona fide selection is made of applicants based on established guides and standards clearly disclosed in immediate conjunction with the representation made.

5. Representing, directly or by implication, that respondents only accept as students those persons who apply for enrollment in respondents' courses at the time the offer is made; or that enrollment therein cannot be accepted thereafter; or that only a limited number of students can be accepted for respondents' courses of instruction and training; or that only a specified number

of applicants responding to a particular advertisement of respondents or from a particular area can be accepted for enrollment in respondents' courses; or that there are any limitations on the number of students who can be enrolled.

6. Representing, directly or by implication, that the lack of a high school education is not a handicap or impediment for a person to take and complete respondents' course or courses of instruction or training or to obtain employment; or misrepresenting, in any manner, the educational or other requirements for such training and employment.

7. Representing, directly or by implication, that persons completing respondents' courses will earn starting or average salaries in excess of salaries actually and customarily paid to persons of like age, experience and training; or misrepresenting, in any manner, the earnings which will be realized by persons completing said courses of instruction.

8. Representing, directly or by implication, that respondents' school occupies all of the building in which it is located, or is larger than it in fact is, or that such school provides or has available physical facilities which are not, in fact, available.

9. Representing, directly or by implication, that respondents will refund sums paid by or in behalf of a student.

10. Failing to deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the sale of the respondents' courses to purchasers; and failing to secure from each such salesman or other person a signed statement acknowledging receipt of said order.

It is further ordered, That the respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions.

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.

IN THE MATTER OF

LEED'S LUGGAGE SHOPS, INC., ET AL.

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

Docket C-1349. Complaint, June 20, 1968—Decision, June 20, 1968

Consent order requiring a New York City retailer of leather and travel goods to cease making deceptive pricing and savings claims for its merchandise and misrepresenting its business status.

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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 Leed's Luggage Shops, Inc., a corporation, and Aaron Horowitz, individually and as manager of said corporation, 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 Leed's Luggage Shops, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 417 Fifth Avenue, New York, New York.

Respondent Aaron Horowitz is an individual and the manager of said corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of luggage, gifts and other leather and travel goods over the counter and by mail order at retail to the public.

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused, their said products, when sold, to be shipped from their place of business in the State of New York to purchasers thereof located in various other States of the United States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business, and for the purpose of inducing the sale of the aforesaid merchandise, the respondents advertise, and have advertised, by means of catalogs, newspapers and other media which are and have been disseminated by and through the United States mails to prospective purchasers living in various States other than the State of New York. Said advertisements contain numerous statements and representations respecting prices and savings for said merchandise and their business status.

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

AGE OLD SYMBOL OF FINE LEATHER CRAFTSMANSHIP

Money Savers

<i>List</i>	<i>Special</i>
\$52.50	\$36.50
55.00	37.50
60.00	40.00
62.50	42.50
75.00	49.50

Money Savers.

From A Leather Specialist.

* * * * *

Clearance Sale

LADIES

Beauty Case : Reg. \$19.95, Sale \$13.95.

21 inch Weekend : Reg. \$30, Sale \$19.95.

MEN'S

21 inch Companion : Reg. \$22.95, Sale \$15.95.

21 inch Companion : Reg. \$32.50, Sale \$21.95.

STYLE

16 inch Zip Hat Box : Wt. 2 lbs., Reg. \$22.50, Now \$13.50.

Our own manufacturing facilities * * * plus direct world wide factory associates in England, France, Italy, West Germany and Japan—assures top quality merchandise at lowest prices.

Leed's will make attache cases in sizes and specifications to fit your particular requirements.

PAR. 5. By and through the use of the aforesaid statements and representations and others of similar import and meaning, but not specifically set out herein, respondents represent, and have represented, directly or by implication:

(a) That said higher price amounts designated as "List" are the prices regularly charged by the principal retail outlets in respondents' trade area;

(b) That said higher price amounts designated as "Reg." are the prices at which such articles of merchandise have been sold or offered for sale in good faith by respondents for a reasonably substantial period of time in the recent regular course of their business;

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(c) That purchasers of respondents' merchandise save an amount equal to the difference between said higher prices and the corresponding lower prices.

(d) That respondents operate or control a factory or factories wherein certain articles of their said merchandise are manufactured.

(e) That as a manufacturer they are associated with foreign manufacturers of certain of their said articles of merchandise, which enables respondents to offer such merchandise at lower prices.

PAR. 6. In truth and in fact:

(a) The higher price amounts designated by "List" are not the prices regularly charged by the principal retail outlets in respondents' trade area.

(b) The higher price amounts designated as "Reg." are not the prices at which such articles of merchandise have been sold or offered for sale in good faith by respondents for a reasonably substantial period of time in the recent regular course of their business.

(c) Purchasers of respondents' merchandise do not save an amount equal to the difference between said higher prices and the corresponding lower prices.

(d) Respondents do not own, operate or control a factory or factories wherein any of their said articles of merchandise are manufactured.

(e) Respondents are not as a manufacturer associated with any foreign manufacturer of their said articles of merchandise so as to be able to offer merchandise from such foreign manufacturers at lower prices.

Therefore, the statements and representations as set forth in Paragraphs Four and Five hereof, were and are false, misleading and deceptive.

PAR. 7. There is a belief on the part of members of the purchasing public that by dealing directly with the manufacturer, lower prices and other advantages may be obtained, a fact of which the Commission takes official notice.

PAR. 8. In the course and conduct of their business, and at all times mentioned herein, respondents have been in substantial competition in commerce, with corporations, firms and individuals engaged in the sale of merchandise of the same general kind and nature as that sold by respondents.

PAR. 9. The use by the respondents 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 state-

ments and representations were and are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 10. The aforesaid acts and practices of the respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' 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 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 the 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 admission by respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having considered the agreement and having accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of 30 days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Leed's Luggage Shops, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 417 Fifth Avenue, in the City of New York, State of New York.

Respondent Aaron Horowitz is an individual and the manager of said corporation and his address is the same as that of said corporation.

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.

Decision and Order

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ORDER

It is ordered, That respondents Leed's Luggage Shops, Inc., a corporation, and its officers, and Aaron Horowitz, individually and as manager of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of luggage, gifts or other leather or travel goods or any other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "List" or any word or words of similar import or meaning to refer to any amount unless substantial sales of such merchandise are being made at that or a higher price by principal retail outlets in respondents' trade area; or misrepresenting, in any manner, the price at which merchandise is sold in respondents' trade area.

2. Using the abbreviation "Reg." or any words or other abbreviations of similar import or meaning to refer to any amount which is in excess of the price at which such merchandise has been sold or openly and actively offered for sale in good faith by respondents for a reasonably substantial period of time in the recent, regular course of their business; or misrepresenting, in any manner, the price at which such merchandise has been sold or offered for sale by respondents.

3. Falsely representing, in any manner, that savings are available to purchasers or prospective purchasers of respondents' merchandise, or misrepresenting, in any manner, the amount of savings available to purchasers or prospective purchasers of respondents' merchandise at retail.

4. Representing, directly or by implication, that they are manufacturers or that they own, operate or control a factory or other manufacturing facility or facilities or that they manufacture any of the merchandise offered for sale by them.

5. Representing, directly or by implication, that as a manufacturer they are associated with other manufacturers and thereby enabled to offer or sell goods at lower prices; or misrepresenting, in any manner, their trade connections, associations or status.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

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.

Order

IN THE MATTER OF

THE GRAND UNION COMPANY

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SECTION 7 OF THE
CLAYTON ACT

Docket 8458. Complaint, Jan. 12, 1962—Decision, June 21, 1968

Order reopening proceeding and setting aside a cease and desist order dated June 10, 1965, 67 F.T.C. 999, which required a major food chain to divest certain retail grocery stores, the respondent having made all except one of the required divestitures, and the prohibitions against certain future acquisitions provided for in docket No. C-1350, the Commission has determined that the public interest would be served by vacating the cease and desist order.

ORDER GRANTING JOINT PETITION OF RESPONDENT AND COMPLAINT
COUNSEL TO REOPEN PROCEEDING AND SET ASIDE ORDER TO CEASE
AND DESIST

Respondent and complaint counsel, by a joint petition filed on April 8, 1968, have requested the Commission to reopen this proceeding and set aside the order to cease and desist issued therein on June 10, 1965 [67 F.T.C. 999]. Under the terms of that order respondent was required to divest certain supermarkets and was prohibited, for a period of 10 years, from making certain acquisitions of retail grocery stores without prior Commission approval. With the exception of one store for which no buyer has been found, respondent has completed the required divestiture.

Simultaneously with the submission of the joint petition, complaint counsel and respondent submitted for the Commission's consideration an Agreement Containing Consent Order to Cease and Desist in proposed settlement of an alleged violation of Section 7 of the amended Clayton Act. The cease and desist order provided for in that Agreement contains a prohibition against certain future acquisitions that is broader than, but in minor respects inconsistent with, the order entered in Docket No. 8458. For this reason, the parties urge that the order in Docket No. 8458 be set aside.

Having today entered the cease and desist order provided for in the above referenced Agreement (Docket No. C-1350 [p. 1050]), the Commission has determined that, in view of such changed conditions, the public interest would be served by vacating the order to cease and desist entered in Docket No. 8458. Accordingly,

It is ordered, That the order to cease and desist entered in Docket No. 8458 be, and it hereby is, set aside.

Complaint

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IN THE MATTER OF

THE GRAND UNION COMPANY

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SECTION 7
OF THE CLAYTON ACT

Docket C-1350. Complaint, June 21, 1968—Decision, June 21, 1968

Consent order prohibiting a large grocery chain with headquarters in East Paterson, N.J. from acquiring for a period of 10 years, without prior approval of the Commission, any grocery store or chain of more than five units, or whose annual sales exceed \$5 million, or whose combined annual sales of respondent and proposed acquired store exceeds 5 percent of the trade area sales.

COMPLAINT

The Federal Trade Commission, having reason to believe that The Grand Union Company has violated the provisions of Section 7 of the Clayton Act, as amended (15 U.S.C. Section 18), through its acquisition of the assets and business of Stevens Markets, Inc., and it appearing that a proceeding by the Commission in respect thereto would be to the interest of the public, issues this complaint stating its charges as follows:

I. DEFINITIONS

1. "Food stores" are establishments primarily selling food for home preparation and consumption. This definition corresponds to Bureau of Census Major Group Classification No. 54.

2. "Grocery stores" are food store establishments primarily selling (1) a wide variety of canned or frozen foods such as vegetables, fruits and soups; (2) dry groceries, either packaged or in bulk, such as tea, coffee, cocoa, dried fruits, spices, sugar, flour and crackers; and (3) other processed food and nonedible grocery items. In addition, these establishments often sell smoked and prepared meats, fresh fish and poultry, fresh vegetables and fruits, and fresh or frozen meats. This definition corresponds to Bureau of Census Industry Classification No. 5411.

II. THE GRAND UNION COMPANY

3. The Grand Union Company is named a respondent herein and is hereafter referred to as "Grand Union." It is a corporation organized and existing under the laws of the State of Delaware, with its principal office and place of business located at 100 Broadway, East Paterson, New Jersey, 07407.