

Drug and Cosmetic Act as it is presently constituted or as it may hereafter be amended.

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

IN THE MATTER OF

AAMCO AUTOMATIC TRANSMISSIONS, INC., ET AL.

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

Docket 8816. Complaint, Dec. 17, 1970—Decision, Dec. 17, 1970

Consent order requiring a major licensor of businesses specializing in the rebuilding, reconditioning and repairing of automatic transmissions used in automobiles with headquarters in Bridgeport, Pa., to cease misrepresenting other products or services to obtain leads to transmission repair, misrepresenting that all customers receive one day service and that customers will receive credit, using the term "overhaul" where service does not include replacement of worn parts, failing to give all terms of a guarantee, failing to furnish customers with an itemized bill of all parts and labor prior to removal of the transmission, furnishing others with deceptive advertising material, failing to disclose respondents' national customer service office telephone number, failing to keep records of all complaints, and failing to deliver a copy of this order to every present and future licensee.

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 AAMCO Automatic Transmissions, Inc., a corporation, and Robert Morgan, individually and as an officer of said corporation, hereinafter referred to as respondents, have, prior to June 1967, 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. AAMCO Automatic Transmissions, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Pennsylvania, with its principal office and place of business located at 408 East Forth Street, in the city of Bridgeport, Commonwealth of Pennsylvania.

Respondent Robert Morgan is an officer of the corporate respondent. He was primarily responsible for formulating, directing and controlling the acts and practices of the corporate respondent including the acts and practices hereinafter set forth. His business 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 granting of licenses or franchises to corporations, partnerships and individuals located in various States of the United States and in the District of Columbia, to operate businesses specializing in the rebuilding, reconditioning and repairing of automatic transmissions used in automobiles and in the sale of parts, supplies and equipment for use in connection therewith. Respondents also engaged directly in the rebuilding, reconditioning and repairing of automatic transmissions through businesses owned or controlled by them prior to October 1967.

In connection with the granting of said licenses or franchises to operate AAMCO transmission shops, respondents require their franchisees-licensees (hereinafter identified as franchisees) to enter into agreements which require said franchisees to pay an initial sum of money for the privilege and a percentage of the gross monetary receipts realized by the franchisees from the operation of their businesses. Said franchisees are required to attend respondents' training course prior to commencing operation as AAMCO franchisees; to adhere to respondents advertising, sales and merchandising policies and procedures; and to recognize that they are members of a group of independent businesses operating throughout the United States, and in the District of Columbia under the AAMCO name. Respondents exercise, and at all times mentioned herein have exercised, a continuing supervision and control over the acts and practices of their franchisees.

The manner in which respondents operated such automatic transmission shops as were directly owned or controlled by respondents prior to October 1967 was similar in all material respects to the manner of operation required of respondents' franchisees.

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused, automatic transmission parts, shop equipment and supplies to be shipped from their place of business in the State of New Jersey or from the place or places of business of respondents' suppliers located in various other States of the United States to AAMCO transmission shops located in various other States of the United States and in the District of Columbia. In the further course and conduct of

their business as aforesaid, respondents transmit to and receive from their franchisees throughout the United States and in the District of Columbia, checks, contracts and other instruments of a commercial nature.

In the further course and conduct of their business as aforesaid, respondents prepare, or cause to be prepared, advertising copy, mats and cuts, television films and scripts for radio broadcasts. The aforesaid advertising materials are transmitted to respondents' franchisees or said franchisees' advertising agencies, located in the various States of the United States and in the District of Columbia and are thereafter disseminated by means of advertisements published in newspapers distributed through the United States mails and by other means or are disseminated over radio and television stations whose broadcasts are interstate in character.

In the course and conduct of their business as aforesaid, respondents maintain, and at all times mentioned herein have maintained, a course of trade in said products and services 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 purchase of the products and services offered by respondents and their franchisees, respondents made in advertisements inserted in newspapers and in broadcasts over radio and television stations, numerous statements and representations with respect to the price, character, type and quality of said products and services.

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

A) NEWSPAPER (prior to January, 1966 and not thereafter)
 WORLD'S LARGEST
 AUTOMATIC TRANSMISSION SPECIALISTS
 AAMCO TRANSMISSIONS
 COAST-TO-COAST IRONCLAD GUARANTEE

Only our mass purchasing power and volume sales make possible AAMCO's Top Quality work at lowest prices. Our constantly expanding network of AAMCO stations thruout the United States backs our available LIFETIME GUARANTEE.

OVERHAUL Consists of:

- Seals
- Rings
- Clutches
- Bands
- Gaskets as required

\$75

Includes

OIL & LABOR

FREE:

- TOWING
- INSPECTION
- ROADTEST
- ESTIMATE

1-DAY

SERVICE

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AAMCO TRANSMISSIONS
 (prior to March, 1967 and not thereafter)
 Take a tip from LEO DUROCHER
 YOU'RE SAFE WITH AAMCO
 The World's Largest TRANSMISSION SPECIALISTS
 Leo Durocher SPECIAL only \$23

Complete Inspection Service:

Removal, dismantling, checking.
 Exclusive 19-point multi-check.
 All minor adjustments.

Free Towing
 1-Day Service
 Easy Terms

Open Daily 8-8

Sunday 10-2

DEALER NAME

B) TELEVISION—Leo Durocher. (prior to April, 1967 and not thereafter)

Don't tell me. It's like I tell the ump. Stop worrying. Your car's got transmission trouble, take it from me, Leo Durocher. Take it to AAMCO. Every month AAMCO specialists get 20,000 cars back on the ball. So stop worrying. To restore your car's zip and go it could be all you need is a band or linkage adjustment. At AAMCO, just \$4.50. And if you need the whole treatment that's the Leo Durocher special, full price \$23 and none higher. You get complete inspection service removing, dismantling, and checking all parts just \$23 at AAMCO. So don't let your transmission get worse, see AAMCO where your job is backed by 200 AAMCO shops from coast to coast. Double AAMCO. There's an AAMCO shop near where you work or live. AAMCO, the world's largest transmission specialists. And tell them that Leo Durocher sent you.

Well that's me, old Leo Durocher. I'm a baseball man and I look after the Cubs. Well this fella here, he's a transmission expert. My friend from AAMCO. He looks after your car's transmission. Most cars over two years old need some transmission service. I say take your car to AAMCO where many transmission problems can be fixed with a simple adjustment of bands or linkage. At AAMCO, \$4.50. If your trouble is serious, you may need AAMCO's safeguard service. That's only \$13.75. Includes AAMCO's multichck, new transmission fluid and all minor adjustments. Just \$13.75 fixes any sick transmission. Fixes yours or your money back on the spot. So see the experts. AAMCO, over 200 shops from coast to coast stand behind every AAMCO job. AAMCO, the world's largest transmission specialists. There's an AAMCO shop near where you work or live. There's free towing and one-day service. So you see the nearby AAMCO man this week and tell him Leo sent you.

C) RADIO—Leo Durocher. (prior to April, 1967 and not thereafter)

I'm Leo Durocher for AAMCO Transmissions. I know the difference between big league and busher. In my book, the big leaguer always comes through. That's why he's on top, and he means to stay there. What's that have to do with your car's transmission? Well, don't trust it to a busher. Take it to AAMCO. They're the largest automatic transmission specialist in the country. Everyone at AAMCO's 200 shops across the country is "big league". Now, let me tell you big league doesn't mean big price. Your AAMCO man will tell you that many transmission problems are fixed with a simple adjustment of bands or linkage. And at AAMCO, I'm talking about \$4.50—where that red, white

and blue sign says "double A (two car honks) M C O"—AAMCO. Tell them your big league friend, Leo Durocher sent you.

PAR. 5. By and through use of the above quoted statements and representations, and others of similar import and meaning but not expressly set out herein, the respondents represented directly or by implication that:

1. AAMCO transmission shops were making a bona fide offer to repair and regularly repair many automatic transmissions with a simple adjustment of bands or linkage for \$4.50, or with AAMCO's safeguard service for \$13.75, or with AAMCO's removal and inspection service for \$23.00.

2. All AAMCO customers with disabled cars were provided free towing service.

3. AAMCO transmission shops provided one day service in every instance.

4. AAMCO transmission shops provided "easy terms" or credit for their customers.

5. Prior to January 1966, AAMCO transmission shops were making a bona fide offer to overhaul any transmission for \$75.

6. Prior to December 1967, AAMCO transmission shops offered customers an unconditional "lifetime" guarantee on work done by them.

PAR. 6. In truth and in fact:

1. AAMCO transmission shops did not regularly repair many automatic transmissions with a simple adjustment of bands or linkage for \$4.50, or with AAMCO's safeguard service for \$13.75 or with AAMCO's removal and inspection service for \$23.00. Although such services were performed from time to time, the real purpose of the offers was to induce members of the public to telephone or visit an AAMCO transmission shop in the belief and expectation that they would have their automatic transmissions repaired at the advertised prices.

2. All prospective AAMCO customers with disabled cars were not provided free towing service.

3. AAMCO transmission shops did not provide one-day service in every instance.

4. AAMCO transmission shops did not provide "easy terms" or credit to customers but referred customers to finance companies or other third parties from whom the customer was to borrow the money to pay the AAMCO shop.

5. The offer of an "overhaul" for \$75 did not constitute a com-

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plete overhaul and did not include the replacement of all worn parts, only gaskets and other so called "soft" parts.

6. The "lifetime" guarantee provided was not unconditional and was subject to conditions and limitations not disclosed in said advertisements.

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

PAR. 7. In the further course and conduct of their business prior to June 1967, respondents and their franchisees devised and consistently and persistently engaged in the following unfair or deceptive acts and practices as a part of the regular and established AAMCO plan or method of doing business. Respondents' franchisees were required to conduct and did conduct their businesses in the manner and by the means hereinafter set forth.

1. When a member of the public telephoned an AAMCO transmission shop and requested information regarding the repair of his automobile, he was informed that it was impossible to diagnose the trouble or quote a price over the telephone. The customer was further informed that the trouble may be minor and may be corrected by a simple adjustment. The customer was offered a free test or checkup upon bringing his automobile to the AAMCO transmission shop.

2. Upon arriving at the AAMCO transmission shop, whether induced by said advertising, telephone conversation or both, the customer's automobile was road tested and checked. In many instances the customer was advised that the problem was inside the transmission and consequently, it would be necessary to remove, dismantle and inspect the transmission. The customer was assured that no further action would be taken without his authorization. In many instances no effort was made during the road test and preliminary check to diagnose the extent or nature of the transmission problem. In those instances the sole object of this procedure was to persuade and induce the customer to transfer custody of his automobile to the AAMCO shop and to obtain authorization to remove and dismantle the transmission from the customer's automobile so that he could thereafter be subjected to efforts to sell him an "AAMCO custom rebuilt" transmission or other products or services at prices greatly in excess of the prices offered in the advertisements as set forth in Paragraphs Four and Five hereof.

3. In those instances after transferring custody of his automobile to the AAMCO transmission shop and authorizing the removal and dismantling of the transmission, the customer was subsequently ad-

vised of the results of the inspection and informed that the transmission was badly worn, damaged or contaminated. Efforts were then made to sell the customer an "AAMCO custom rebuilt" transmission with a lifetime guarantee. If those efforts were unsuccessful, efforts were then made to sell the customer an AAMCO rebuilt transmission with a six months' guarantee for a lower price. If these efforts also proved unsuccessful, the customer was then offered a repair at a still lower price with a 90 day guarantee. No disclosure was made of the availability of the lower priced products and services unless and until efforts to sell the "AAMCO custom rebuilt" transmission with a "lifetime" guarantee were unsuccessful. In some instances, when a customer refused to authorize further work on his transmission after it had been removed and dismantled, respondents' franchisees failed and refused to reassemble and replace the customer's transmission in its condition. In other instances, respondents' franchisees informed a customer who had refused to authorize the repair of his transmission that an additional charge above and beyond the advertised price of \$23 would be made for reassembling and replacing the customer's transmission in its former condition. No disclosure was made to the customer at the time his authorization was obtained for the removal and dismantling of his transmission that such additional charge would be made in the event he refused to authorize the repair of his transmission.

4. Through the AAMCO plan or method of doing business in effect prior to June 1967, members of the public who transferred the custody of their automobiles to an AAMCO transmission shop and authorized the removal and dismantling of the transmissions from their automobiles were deprived of the opportunity to choose freely the products and services that they desired and in some instances were sold higher priced jobs than reasonably necessary to restore their transmissions to sound operating condition. When the AAMCO transmission shop gained custody of the customer's automobile and removed and dismantled the transmission, the customer was placed at a bargaining disadvantage.

5. Respondents and their franchisees failed or refused to provide their customers with itemized statements of the parts and labor charges included in the price of the products or services purchased by their customers. Said customers were thereby deprived of the opportunity to determine whether they had, in fact, received the products and services for which they had paid.

6. Respondents and their franchisees utilized rebuilt, reconditioned, salvaged or other used parts when repairing or rebuilding

transmissions and failed to disclose to customers whose transmissions had been repaired or rebuilt with such previously used parts, the use of such parts.

Therefore, the statements and representations as hereinabove set forth were false, misleading and deceptive.

PAR. 8. Through the granting of licenses or franchises to operate AAMCO transmission shops to corporations, partnerships and individuals using respondents' advertising materials and the AAMCO plan or method of doing business, respondents placed in the hands of others the means and instrumentalities by and through which they misled and deceived the public in the manner and as to the things hereinabove set forth.

PAR. 9. In the course and conduct of their aforesaid business, and at all times mentioned herein, respondents, directly and through their franchisees, have been, and now are, in competition, in commerce, with corporations, firms, and individuals engaged in the sale of products and services of the same general kind and nature as those sold by respondents.

PAR. 10. The use by respondents and their franchisees of the aforesaid false, misleading and deceptive statements, representations and practices had the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were true and into the purchase of substantial quantities of the products and services offered by respondents and their franchisees by reason of said erroneous and mistaken belief and by reason of said unfair and deceptive acts and practices.

PAR. 11. The aforesaid acts and practices of respondents, as herein alleged, were all to the prejudice and injury of the public and of respondents' competitors and constituted 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 issued its complaint charging respondents herein with violation of the Federal Trade Commission Act, and the respondents having been served with a copy of that complaint; and

The Commission having duly determined upon motion by respondents AAMCO Automatic Transmissions, Inc., and Robert Morgan certified to the Commission that, in the circumstances presented, the public interest would be served by waiver here of the provision of

Section 2.34(d) of its Rules that the consent order procedure shall not be available after issuance of complaint; and

Respondents AAMCO Automatic Transmissions, Inc., and Robert Morgan and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by said respondents of all the jurisdictional facts set forth in the complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by said 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 thereafter considered the matter and having determined that it had reason to believe that respondents AAMCO Automatic Transmissions, Inc., and Robert Morgan have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record and having duly considered the comments filed thereafter pursuant to Section 2.34(b) of its Rules, now, in further conformity with the procedure prescribed in such Rule, the Commission hereby issues, its revised complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent AAMCO Automatic Transmissions, Inc., is a corporation organized, existing and doing business under the laws of the Commonwealth of Pennsylvania with its principal office and place of business located at 408 East Fourth Street, Bridgeport, Pennsylvania.

Respondent Robert Morgan is an individual and officer of said corporation. He formulated, directed and controlled the acts and practices of said corporation and his address is the same as that of the 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.

ORDER

I

It is ordered, That these proceedings be, and hereby are, terminated as to respondent Anthony A. Martino.

II

It is ordered, That respondents AAMCO Automatic Transmissions, Inc., a corporation, and its officers and Robert Morgan, indi-

vidually and as an officer of said corporation, and respondents' agents and employees, directly or through any corporate or other device or through any agent, employee, licensee or franchisee, in connection with the advertising, offering for sale, sale, repair, servicing or distribution of automobile transmissions or any other automotive component, part or repair, or other services or products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using any advertising, sales plan or procedure involving the use of false, deceptive or misleading statements or representations which are designed to obtain leads or prospects for the sale of products or services other than those offered or advertised.

2. Representing, directly or by implication, that any product or service is offered when such offer is not a bona fide offer to sell said product or service. However, respondents' licensees or franchisees shall not be required to provide a product or service when the licensee or franchisee determines in good faith that such products or service are not applicable to the proper repair of a transmission, or other automotive components.

3. Representing, directly or by implication that all customers will receive one day service; misrepresenting, in any manner to any customer, the availability or completion time of any service for the purpose of gaining or retaining custody of the customer's automobile.

4. Misrepresenting that respondents or their licensees or franchisees furnish credit to customers; provided that nothing herein shall be deemed to prohibit respondents or their licensees or franchisees from making truthful and non-deceptive references as to the availability of credit or the arrangements that may be made for credit.

5. Using the term "overhaul" or any other word or words of similar import or meaning to refer to any transmission service which does not include the removal, disassembly, and replacement of all worn parts and the reassembly and reinstallation of the transmission in the vehicle.

6. Misrepresenting, in any manner, the nature or extent of any service or parts necessary to properly repair an automotive component.

7. Representing that any article of merchandise or service is guaranteed unless all of the terms and conditions of the guarantee, the identity of the guarantor and the manner in which the

guarantor will perform thereunder are clearly and conspicuously disclosed.

8. Misrepresenting to a customer that his transmission problem is an internal one necessitating the removal of the transmission from the automobile and its disassembly for diagnosis.

9. Removing and disassembling the customer's transmission for the purpose of misrepresenting that a serious transmission problem has been discovered requiring major repair service.

10. Refusing to disclose to a customer the specific nature of any transmission problem after proper inspection procedures have been completed.

11. Obtaining authorization from any customer to remove, or removing, the transmission or any other part from any customer's automobile without clearly and emphatically informing the customer at the time such authorization is obtained and prior to the removal of said transmission or other part, of the charge which will be made for replacement of the transmission or other part in its former nonrepaired condition in the customer's automobile if the customer refuses to authorize further work thereon, or refusing or failing to replace said transmission or other part in its former nonrepaired condition when requested to do so by the customer for the stated charge or without charge in case none was stated prior to such removal.

12. Failing to provide all customers, at the time of billing, with an itemized list of all parts and labor for which the customer is being charged in connection with the sale, service or repair of an automobile transmission or any other automotive component; and if any such parts were used or reconditioned, a clear disclosure on such list of the fact that such parts were used or reconditioned as the case may be; *Provided*, That when an automobile transmission or other automotive component has been rebuilt in the manner set forth in such trade practice rules or guides for the Rebuilt, Reconditioned and Other Used Automotive Parts Industry as may be in effect, in lieu of such itemized list, a certification may be furnished in writing to the customer that states substantially as follows:

"This certifies that the transmission (or other automotive component) has been dismantled, reconditioned or rebuilt as necessary; all external and internal parts cleaned, all defective parts restored or replaced as needed with new, rebuilt or sound used parts and such machining or other proce-

dures performed as necessary to place your transmission (or other automotive component) in sound working condition." This certification shall be signed by or on behalf of the licensee or franchisee responsible for the sale or installation of the transmission or other automotive component.

13. Failing to, at the time of suggesting to a customer that they repair, recondition or rebuild his transmission or other automotive component, prepare a written quotation sheet describing the costs involved in repairing, reconditioning or rebuilding the customer's transmission or other automotive component. Where alternative services are available, the quotation sheet shall set forth such alternatives. At the time of suggesting to a customer that they repair or rebuild his transmission or other automotive component, they shall orally inform the customer of the information contained in said quotation sheet. The customer, upon his request, shall be entitled to receive a copy of said written quotation sheet. Said written quotation sheet shall be kept available at the transmission shop for a period of not less than twelve months from the date it is prepared. When agreement is reached between a shop and a customer, the shop shall prepare a written work order setting forth the agreed repair or replacement work and the agreed price together with the agreed financing arrangement if it is not a cash transaction. A copy of this work order shall be furnished to the customer at the earliest practicable time, either by placing it in a conspicuous place in or upon his automobile or by delivering it to him in person when he next visits the transmission shop. In addition, the work order shall clearly disclose on its face, the following statement:

"YOU ARE ENTITLED TO RECEIVE A COPY OF OUR QUOTATION SHEET WHICH SETS FORTH THE COST OF THE SERVICE OR SERVICES WHICH WERE AVAILABLE TO YOU"

Each shop shall display in a conspicuous place a large sign which states:

"Inspection service includes written quotation sheet upon request."

14. Using any deceptive sales scheme or device to induce the sale of the products or services offered by respondents or their licensees or franchisees.

15. Placing in the hands of others advertising materials, sales manuals or any other thing for the purpose of misleading or deceiving prospective customers or customers as to any of the matters or things prohibited by this order.

16. Failing to continue to disclose clearly and conspicuously on invoices furnished by licensees or franchisees to their customers the identification, location and telephone number of respondents' national customer service office.

17. Failing to deliver by ordinary mail a copy of this order to each present and every future licensee or franchisee; and failing to obtain an agreement in writing from each present and every future licensee or franchisee to abide by the terms of this order: *Provided, however,* That as to any licensee or franchisee whose franchise agreement is in effect as of the effective date of this order, respondents' failure to obtain said agreement to abide by the terms of the order shall not be deemed a violation of this provision if, after having made a diligent effort to obtain said agreement from any such licensee or franchisee and such licensee or franchisee having failed or refused to execute such agreement, respondents inform the Commission of the identity of such licensee or franchisee.

18. Failing, after acceptance by the Commission of respondents' initial report of compliance to maintain, and have readily available, records of each and every complaint received by respondents involving the acts and practices prohibited by this order and which: (1) describe each and every complaint, including the name and address of the complaining party; (2) set forth the facts uncovered by respondents in connection with the investigation of each such complaint, and (3) state the disposition of each such complaint. Said records shall be maintained and kept readily available for at least 24 months following the month in which said records were created.

It is further ordered, That respondents and respondents' agents and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale, repair, servicing or distribution of automobile transmissions or other automotive components, parts or services, or other products or services, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Representing, or from providing any advertising or promotional materials to any licensee or franchisee which represent, that automobile transmissions or other automotive components will be inspected, serviced or repaired for any particular price, or that any other service will be provided or product sold, for any particular price unless the particular price represents the price previously and independently determined by the licensees

or franchisees participating in the advertising program or named in the advertisement. For the purposes of this paragraph, representations of price include, but are not limited to, representations that minor repairs will be made for \$4.50 to \$28.80, that inspections will be performed for \$23.00 or that towing or any other service will be provided free of charge. Nothing herein shall be deemed to sanction price fixing.

It is further ordered, That respondents continue to maintain their program of surveillance which is designed and executed to enable respondents to reasonably determine whether any of their licensees or franchisees may be engaged in any of the acts and practices prohibited by the provisions of this order. The acts and practices of an individual licensee or franchisee which violate any provision of this order shall be determined a violation of this order by respondents, if, upon having knowledge that such act or practice has occurred, respondents do not take reasonably diligent steps to effect a discontinuance of the act or practice by the licensee or franchisee. For the purpose of this paragraph "knowledge" shall be defined as that which is obtained through respondents' program of surveillance. The receipt of individual complaints shall not, in itself, be deemed to constitute "knowledge": *Provided,* That respondents shall promptly institute a specific surveillance investigation of any licensee or franchisee who is the subject of 18 or more customer complaints in any calendar year: *And further provided,* That the foregoing shall not excuse respondents from failure to investigate any complaints which may violate this order and which are discovered in the course of its regular program of surveillance. For the purpose of this paragraph "reasonably diligent steps" shall mean that (1) the licensee or franchisee shall be instructed by registered mail to discontinue the acts or practices which violate this order, with further instructions to reply in writing within 10 days agreeing to discontinue the said acts or practices; (2) failing to receive within 10 days from the licensee or franchisee a written agreement to discontinue said acts or practices, respondents shall send a second letter, registered mail, to the licensee or franchisee with instructions that such licensee or franchisee submit within 10 days a written agreement to discontinue said acts or practices, with a warning that upon failure to do so, the Federal Trade Commission will be notified of such refusal to comply with respondents' instructions; (3) in the event the licensee or franchisee does not agree in writing to discontinue such acts or practices, or if the respondents shall have knowledge (as defined above) that such acts and practices have not been discontinued, the respondents

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shall notify the Federal Trade Commission in writing, copy to licensee or franchisee, and offer its full facilities to assist the Commission in any action against said licensee or franchisee; (4) for a period of 60 days subsequent to knowledge (as defined above) that a licensee or franchisee had engaged in any of the acts or practices prohibited by the provisions of this order, respondents' surveillance department shall arrange its schedule so as to perform at least one inspection of said licensee or franchisee; and (5) if respondents shall have knowledge (as defined above) that a licensee or franchisee, for the purpose of obtaining a higher price, has knowingly misrepresented the extent of repairs necessary to properly repair customers' transmissions, or who fails to replace parts in customers' transmissions that licensee or franchisee represented as requiring replacement or is listed on customers' repair orders as having been replaced, and if the licensee or franchisee has been previously requested in writing (as covered above) to discontinue these specific acts and practices, the respondents, in addition to notifying the Federal Trade Commission of these facts, shall institute legal action for the purpose of having said licensee or franchisee's Franchise Agreement terminated.

It is further ordered, That respondents notify the Commission at least 30 days after any change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That respondents furnish a copy of this order to each of their operating divisions or departments.

It is further ordered, That 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

MALVIN & GOLDMAN, ET AL.

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

Docket C-1834. Complaint, Dec. 17, 1970—Decision, Dec. 17, 1970

Consent order requiring a New York City firm of fur wholesalers to cease and desist from deceptively invoicing any fur product.