
IN THE MATTER OF
STEVEN RIZZI, ET AL., TRADING AS FREIGHT LIQUIDATORS
ORDER OF DISMISSAL, ETC., AS TO AN INDIVIDUAL RESPONDENT,
IN REGARD TO ALLEGED VIOLATIONS OF THE TEXTILE FIBER
PRODUCTS IDENTIFICATION AND FEDERAL TRADE COMMISSION
ACTS

Docket 8937. Complaint, July 30, 1973—Decision, Jan. 3, 1974

Order dismissing complaint against Steven Rizzi, individual respondent who was alleged to be a partner of Freight Liquidators, but was found to be merely an employee with no responsibility for acts alleging false claims, misbranding and advertising textiles deceptively.

Appearances

For the Commission: *Everette E. Thomas, Maureen C. McGill and Alice C. Kelleher.*

For the respondent: *David W. Ralston, McLean, Va.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and the Textile Fiber Products Identification Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that the parties named in the caption above, hereinafter sometimes referred to as respondents, have violated the provisions of said Acts, and the rules and regulations promulgated under the Textile Fiber Products Identification 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 Steven Rizzi is an individual and a copartner of respondent Joseph W. Green, trading and doing business as Freight Liquidators at 7515 Lee Highway, Merrifield, Va.

Respondent Mike McKeever is an individual and a copartner of respondent Joseph W. Green, trading and doing business as Freight Liquidators at 552 Kenilworth Avenue, Riverdale, Md.

Respondent Jerry M. Lytell is an individual and a copartner of respondent Joseph W. Green, trading and doing business as Freight Liquidators at 1065 West Broad Street, Falls Church, Va.

Respondent Herbert Millstein is an individual and a copartner of respondent Joseph W. Green, trading and doing business as Freight Liquidators at 442 Eastern Boulevard, Essex, Md. and at 4801 Suitland Road, Suitland, Md.

Respondent Sam Katz is an individual and a copartner of respondent Joseph W. Green and Jerry M. Lytell, trading and doing business as Freight Liquidators at 14811 Washington Boulevard, Laurel, Md.

Respondent Harold J. Green is an individual and a copartner of respondent Joseph W. Green, trading and doing business as Freight Liquidators at 4689 King Street, Alexandria, Va.

Respondent George Edward Ommeret is an individual and a copartner of respondents Joseph W. Green and Herbert Millstein, trading and doing business as Freight Liquidators at 309 North Frederick Avenue, Gaithersburg, Md.

Respondent John W. Green is an individual and a copartner of respondent Joseph W. Green, trading and doing business as Freight Liquidators at 7849 Eastern Avenue, Silver Spring, Md. and 8651 Richmond Highway, Alexandria, Va.

Respondent Peter W. Galarneau is an individual and a copartner of respondent Joseph W. Green, trading and doing business as Freight Liquidators at 9112 Center Street, Manassas, Va., and 1727 Wilson Boulevard, Arlington, Va.

Respondent Gerald Gautcher is an individual and a copartner of respondent Joseph W. Green, trading and doing business as Freight Liquidators at 939 York Road, Towson, Md.

Respondent Joseph W. Green is an individual and a copartner of each of the above respondents. His principal office is located at 380 West Maple Avenue, Vienna, Va., and his places of business are the same as those of his copartners above.

All of the aforementioned respondents have cooperated and acted together in the performance of the acts and practices of the businesses which they have conducted and are conducting under the name of Freight Liquidators, including 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

rugs, sewing machines, stereo radios and phonographs, and various other articles of merchandise, to the purchasing public.

COUNT I

Alleging violation of Section 5 of the Federal Trade Commission Act, the allegations of Paragraphs One and Two hereof are incorporated by reference in Count I as if fully set forth verbatim.

PAR. 3. In the course and conduct of their business as aforesaid, respondents have caused, and now cause, the dissemination of certain advertisements concerning the aforesaid articles of merchandise, by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including, but not limited to, advertisements inserted in newspapers of interstate circulation, and by means of radio broadcasts transmitted by radio stations located in the Commonwealth of Virginia, having sufficient power to carry such broadcasts across state lines, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of respondents' said merchandise.

In the further course and conduct of their business, as aforesaid, respondents have caused, and now cause, their said merchandise to be shipped across state lines between their various retail outlets located in the Commonwealth of Virginia and State of Maryland, for sale to purchasers thereof located in the Commonwealth of Virginia and State of Maryland, and the District of Columbia. Thus, respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. By means of advertisements inserted in newspapers and disseminated as aforesaid, and by means of advertising circulars disseminated by hand delivery to numerous places of residence in the Commonwealth of Virginia and State of Maryland and the District of Columbia, respondents have made various statements and representations of which the following are typical and illustrative, but not all inclusive thereof:

PUBLIC NOTICE

(4 DAYS ONLY!)

LIQUIDATION SALE

BANKRUPTCY STOCK—FACTORY & MILL CLOSEOUTS
ALL NEW MERCHANDISE—FAMOUS BRAND NAMES.

\$1,287,350 WORTH OF PRE-CUT RUGS AND MILL-END ROLLS, TELEVISIONS,
STEREOS AND COMPONENTS & SEWING MACHINES

(HUNDREDS OF ITEMS NOT SHOWN BELOW ARE ALSO ON DISPLAY.)
BE EARLY FOR BEST SELECTION

Complaint

83 F.T.C.

* * * * * *

STEREO

UNCLAIMED FREIGHT

BANKRUPTCY STOCK FACTORY CLOSEOUTS

TRUCK LOAD LIQUIDATION

All New Merchandise

LAST NOTICE FOR THIS WEEKEND

FRIDAY, SATURDAY, SUNDAY & MONDAY

ONLY \$88

New 1972 (in cartons), 5-piece Stereo Component Units, 40 Watts, AM/FM radio, deluxe 4 spd. BSR turntable, 4-speaker sound system, equipped for 8 track tape player, tape recorder, etc. Only \$88.

Only \$147

New 5-Piece Components 4-speed Deluxe Turn Tbl., 100 watts, AM/FM radio, deluxe 4-spd. turntable w/diamond stylus, 4-speaker air suspension audio system. Equip. for 8-trk. cassette. Orig; \$329. Yours for \$147.

Only \$108

New 1972 (in cartons), famous make, 100 watt tuners w/AM/FM multiplex equipped for 8 track or cassette. Only \$108.

From Only \$88

New console stereo, various sizes & finishes. Lge. assortment w/AM/FM radio & deluxe 4 spd. changer.

FREIGHT LIQUIDATORS

Deal With The Store Near You * * *

* * * * * *

RUGS

12x9's \$19

WAREHOUSE LIQUIDATION

4 DAYS ONLY!

All 100% nylon, acrilan, polyester pile. Full sizes 9x12, 12x12, 12x15, 12x21, 6x9, also odd sizes and various size ovals. In gold, green, red, blue, and other exciting colors. Shags, plushes, twists and sculptured. Will give a warm look to your apt.

OVALS—FRINGED \$8

WE LIQUIDATE RUGS FOR FAMOUS SOUTHERN MILLS. ALL ARE GUARANTEED PERFECT.

MASTER CHARGE, BANKAMERICARD, TERMS AVAILABLE

FREIGHT LIQUIDATORS WAREHOUSES

* * * * *

FREIGHT LIQUIDATORS

Deal With The Store Near You * * *

BRAND NEW SEWING MACHINES \$63

You may own a 1971 "Touch-N-Stitch" Zig-Zag, new stretch stitch, embroiders, monograms, appliques, makes buttonholes, etc., all without attachments. Ordered for schools, "UNCLAIMED BY THEM." 25-year, guarantee and instructions.

* * * * *

PAR. 5. By and through the use of the above-quoted statements and representations, and others of similar import and meaning but not expressly set out herein, separately and in connection with the oral statements and representations of respondents' salesmen to customers and prospective customers, the respondents have represented, and are now representing, directly or by implication, that:

1. By and through the use of said name "Freight Liquidators," separately or in connection with the foregoing statements and representations or by said statements and representations alone, that they are liquidators, authorized adjustors or agents engaged in the sale or disposition of bankrupt, salvage, distrained or other distress or transportation company surplus merchandise for the purpose of liquidating, adjusting, paying off or otherwise settling indebtedness or claims.

2. By and through the use of said name "Freight Liquidators," separately or in connection with the foregoing statements and representations or by said statements and representations alone, that merchandise advertised by respondents is bankrupt, salvage, distrained, distress or transportation company surplus merchandise, and therefore has a unique or special disposition.

3. Because of the unique or special disposition of the advertised merchandise, it is being offered at prices below those usually and customarily charged at retail.

4. Purchasers of the advertised merchandise are afforded savings equal to the differences between respondents' advertised prices and those at which the same merchandise is usually and customarily sold at retail.

5. The amount designated as "Orig." was the price at which the merchandise advertised had been sold by respondents in the recent, regular course of their business.

6. Purchasers of the merchandise advertised are afforded savings equal to the differences between the higher and lower prices listed in said statements.

7. Respondents are making a bona fide offer to sell the advertised merchandise at the price and on the terms and conditions stated in the advertisements.

8. Respondents are making a bona fide offer to sell a complete sewing machine without attachments for the advertised price.

9. Certain of respondents' products are unconditionally guaranteed for various periods of time such as twenty-five (25) years.

10. The quantities of merchandise and the time during which such are available for sale are limited.

PAR. 6. In truth and in fact:

1. Respondents are not liquidators, authorized adjustors or agents engaged in the sale or disposition of bankrupt, salvage, distrained or other distress or transportation company surplus merchandise for the purpose of liquidating, adjusting, paying off or otherwise settling indebtedness or claims. Instead, respondents are in the business of purchasing the advertised merchandise from manufacturers or suppliers and selling it at retail for their own account to the purchasing public.

2. Merchandise advertised by respondents is not bankrupt, salvage, distrained, distress or transportation company surplus merchandise, and therefore does not have a unique or special disposition.

3. The advertised merchandise is not being offered at prices below those usually and customarily charged at retail.

4. Purchasers of the advertised merchandise are not afforded savings equal to the differences between respondents' advertised prices and those at which the same merchandise is usually and customarily sold at retail.

5. Said merchandise had not been customarily and usually sold at retail by respondents in the recent, regular course of their business for the amounts set out in the advertisements as "Orig."

6. Purchasers of the merchandise advertised are not afforded savings equal to the differences between the higher and lower prices listed in said statements.

7. Respondents are not making a bona fide offer to sell the advertised merchandise at the price and on the terms and conditions stated in the advertisements. To the contrary, said offers are made for the purpose of obtaining leads to persons interested in the purchase of merchandise similar to that advertised. Members of the purchasing public who respond to said advertisements are either told by respondents' salesmen that the advertised merchandise is not available, or are shown higher priced merchandise of superior quality, which by comparison disparages and demeans the advertised merchandise. By these and other tactics, purchase of the advertised merchandise is discouraged, and respond-

ents, through their slaesmen, attempt to sell and frequently do sell the higher priced merchandise.

8. Respondents are not making a bona fide offer to sell a complete sewing machine without attachments for the advertised price. The advertised price is for a sewing machine head and does not include such essentials as a base or stand, without which the head of the machine is useless.

9. Respondents' products are not unconditionally guaranteed for the period of time stated in said advertisements or orally represented by respondents' salesmen. To the contrary, the only guarantee for respondents' products is that which is provided by the manufacturers thereof, and such guarantees are subject to conditions and limitations not disclosed in respondents' representatives' oral representations.

10. The quantities of merchandise and the time during which such are purportedly available for sale are not limited. In fact, this representation is designed to act as the inducement for the practices set forth in Paragraph Six 7., hereof.

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

PAR. 7. In the course and conduct of their aforesaid business, and at all times mentioned herein, respondents have been, and now are, in substantial competition in commerce, with corporations, firms and individuals in the sale and distribution of merchandise of the same general kind and nature as that sold by respondents.

PAR. 8. The use by respondents of the aforesaid false, misleading and deceptive statements, representations, acts and practices, and their failure to disclose material facts, as aforesaid, has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and complete and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 9. 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.

COUNT II

Alleging violation of the Textile Fiber Products Identification Act and the implementing rules and regulations promulgated thereunder, and of

the Federal Trade Commission Act, the allegations of Paragraphs One and Two hereof are incorporated by reference in Count II as if fully set forth verbatim.

PAR. 10. Respondents are now, and for some time last past have been, engaged in the introduction, delivery for introduction, sale, advertising, and offering for sale, in commerce, and in the transportation or causing to be transported in commerce, of textile fiber products including rugs and floor covering and have sold, offered for sale, advertised, delivered, transported and caused to be transported, after shipment in commerce, textile fiber products, either in their original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act.

PAR. 11. Certain of said textile fiber products were misbranded by respondents within the intent and meaning of Section 4(a) of the Textile Fiber Products Identification Act and of the rules and regulations promulgated thereunder, in that they were falsely and deceptively advertised, or otherwise identified as to the name or amount of constituent fibers contained therein.

PAR. 12. Certain of said textile fiber products were falsely and deceptively advertised in that respondents in making disclosures or implications as to the fiber content of such textile fiber products in written advertisements used to aid, promote, and to assist, directly or indirectly, in the sale or offering for sale of said products, failed to set forth the required information as to fiber content as specified by Section 4(c) of the Textile Fiber Products Identification Act, and in the manner and form prescribed by the rules and regulations promulgated under said Act.

PAR. 13. Among such textile fiber products, but not limited thereto, were rugs which were falsely and deceptively advertised in *The Washington Post*, a newspaper published in the District of Columbia, having a wide circulation in the District of Columbia and various other States of the United States, in that said rugs were described by such fiber connoting terms among which, but not limited thereto, was "Acri-lan," and the true generic name of the fiber contained in such rugs was not set forth.

PAR. 14. By means of the aforesaid advertisements and others of similar import and meaning not specifically referred to herein, respondent has falsely and deceptively advertised textile fiber products in violation of the Textile Fiber Products Identification Act in that said textile fiber products were not advertised in accordance with the rules and regulations promulgated thereunder in the following respects:

1. In disclosing the fiber content information as to floor coverings

containing exempted backings, fillings, or paddings, such disclosure was not made in such a manner as to indicate that such fiber content information related only to the face, pile or outer surface of the floor covering and not to the backing, filling or padding, in violation of Rule 11 of the aforesaid rules and regulations.

2. A fiber trademark was used in advertising textile fiber products, without a full disclosure of the fiber content information required by said Act, and the Regulations promulgated thereunder, in at least one instance in said advertisement, in violation of Rule 41(a) of the aforesaid rules and regulations.

3. A fiber trademark was used in advertising textile fiber products, containing only one fiber and such fiber trademark did not appear, at least once in the said advertisement, in immediate proximity and conjunction with the generic name of the fiber, in plainly legible and conspicuous type, in violation of Rule 41(c) of the aforesaid rules and regulations.

PAR. 15. The acts and practices of respondents as set forth above were, and are, in violation of the Textile Fiber Products Identification Act and rules and regulations promulgated thereunder, and constituted, and now constitute, unfair and deceptive acts and practices, in commerce, and unfair methods of competition, in commerce, under the Federal Trade Commission Act.

SUMMARY INITIAL DECISION AND ORDER DISMISSING COMPLAINT AS TO STEVEN RIZZI BY MILES J. BROWN, ADMINISTRATIVE Law JUDGE

NOVEMBER 13, 1973

This matter has been presented to the administrative law judge for decision pursuant to the provisions of Section 3.22 of the Commission's Rules of Practice. Respondent Steven Rizzi has moved for summary decision of dismissal and counsel supporting the complaint have moved for summary decision against dismissal. Contained in the motion against dismissal is a "Stipulated Statement of Facts" and attached to that motion are Mr. Rizzi's affidavit, six letters and a form-draft of a partnership agreement.

It is the opinion of the administrative law judge that the motion for summary decision of dismissal should be granted. Because there appear to be no genuine issues of fact and because this decision completes the case as to Mr. Rizzi, this decision will constitute an initial decision as required by Section 3.24 of the Commission's Rules of Practice.

FINDINGS AS TO THE FACTS

The stipulated statement is supported by the matters set forth in the attachments to the motion against dismissal and is adopted as the findings of fact:

During an investigational hearing on Mar. 8, 1973, Joseph W. Green testified that he was engaged in a merchandise retail business with various partners, however these agreements were not reduced to writing. Mr. Green further testified that "Rizzi is in charge of marketing. That would be generally in the sales end of the company." Mr. Green also affirmed that he intended to make Mr. Rizzi vice president in charge of marketing in the Delaware corporation. On Apr. 14, 1973, Jerome I. Silverman, accountant for Joseph W. Green, in a telephone conversation with complaint counsel stated that a Mr. Chac's partnership with Joseph W. Green had been dissolved and that Mr. Steven Rizzi was the new partner on a 50/50 basis in the Lee Highway, Virginia store.

Respondent Steven Rizzi was never a formal partner with any of the named respondents in this matter (see affidavits and correspondence). He was employed by respondent Joseph W. Green from Jan. 1972 until Sept. 1972.

Respondent Rizzi's duties during his approximate nine month employment with Joseph W. Green included: (1) selling Freight Liquidator partnerships to individuals wanting to go into business with Mr. Green; (2) ordering and purchasing carpeting; (3) correlating sales information from the Freight Liquidators' stores; and (4) other administrative work which included being on call for any problems which might arise in the stores.

Respondent Rizzi was compensated by Joseph W. Green on the basis of a 5 percent commission on the initial payment of \$25,000 by partnership applicants. All instruction and direction in respondent Rizzi's employment was provided by Joseph W. Green. Mr. Rizzi was aware of complaints from customers of Freight Liquidators. He was also knowledgeable of the Freight Liquidators overall method of doing business including the advertising and sale of merchandise.

Prior to his employment with Freight Liquidators, respondent Rizzi worked as a salesman for Price-Radin Associates, a land development corporation. After his termination with Freight Liquidators he established a retail carpet store in Alexandria, Va., under the trade name Merchandise Distributors, on Nov. 15, 1972. He went out of business on Oct. 22, 1973, and is presently employed as sales manager for Anthony Pools.

* * * * *

Counsel supporting the complaint concede that contrary to the information received during the investigation of this matter these stipulated facts demonstrate that Mr. Rizzi was not an actual partner of any of the respondents. They contend, however, that these facts do establish that he and other respondents "cooperated and acted together in the performance of the acts and practices" challenged in the complaint (Motion Against at 3). Counsel argue that they expect to show "that the acts and practices complained of were the joint responsibility of a number of individual participants, all of whom shared in the ill-gotten proceeds and have the potential for continuing such practices in the future" (*ibid.*).

The principal focus of the complaint is on the advertising and sales practices of a group of proprietorships trading under a common name. The complaint alleged that each of the individual respondents, including Mr. Rizzi, was the partner of respondent Joseph W. Green trading and doing business as Freight Liquidators at a particular location. The complaint further alleged as follows (Par. 1):

All of the aforementioned respondents have cooperated and acted together in the performance of the acts and practices of the businesses which they have conducted and are conducting under the name of Freight Liquidators, including the acts and practices hereinafter set forth.

Significantly, although named as individuals, the complaint does not name any person merely as an employee of any respondent, but rather identifies all respondents as individuals trading as Freight Liquidators.

On the basis of the findings of fact it is apparent that Steven Rizzi was merely an employee of Mr. Green. His enumerated duties¹ did not place him in a position of responsibility for the challenged acts and practices in advertising or sales. Nor was Mr. Rizzi ever a manager of a store.

It is concluded that Mr. Rizzi did not "conduct" business or trade under the name Freight Liquidators, nor did he "cause" or "engage" in or have control over the challenged acts and practices. It is further concluded that, as a matter of law, Mr. Rizzi was not "responsible" severally or jointly with others for such practices.

In this respect, I am not aware of, nor have counsel cited, any contested Federal Trade Commission case which has named an employee as respondent or specifically named an employee in an order merely because of his employment. Some involvement in management or some overt act involving the challenged conduct or some control over such conduct of others appears to be necessary.² Mr. Rizzi does not

¹ (1) selling Freight Liquidators' partnerships to individuals wanting to go into business with Mr. Green; (2) ordering and purchasing carpeting; (3) correlating sales information from the Freight Liquidators' stores; and (4) other administrative work which included being on call for any problems which might arise in the stores.

² For example, the finding that an individual "formulated, directed, and controlled corporate policies and practices" was sufficient to hold him responsible in *Benrus Watch Co. v. Federal Trade Commission*, 352 F.2d 313, 325 (8th Cir. 1965), *cert denied*, 384 U.S. 939 (1966). More recently, a finding that an individual stockholder, officer and director was "deeply involved in the important business affairs of all the corporate [petitioners]" was deemed sufficient. *Sunshine Art Studios, Inc. v. Federal Trade Commission*, 1st Cir. No. 73-1037 (decided July 23, 1973).

appear to meet these requirements. Moreover, mere knowledge of the existence of challenged conduct does not appear to be sufficient grounds for inclusion. On the other hand, coverage of the order is generally extended to persons not named as respondents by including in the preamble of the order such generic terms as "agents, representatives, employees, successors and assigns." In my view, should the Commission desire to extend its enforcement of Section 5 of the Federal Trade Commission Act to cover employees it would be better to do so forthrightly rather than develop such law in a situation involving such variance from the actual tenor of the complaint.

In the circumstances it would appear to be grossly unfair to require Mr. Rizzi to participate as a respondent in a trial where the actual facts are so different from those originally reported during investigation and alleged in the complaint. The mere possibility that some additional facts may turn up upon which counsel supporting the complaint might argue complicity and thus joint responsibility for the acts and practices is not, in my opinion, reasonable grounds for retaining Steven Rizzi as a respondent throughout this proceeding.

Finally, it should be noted, that although the parties have argued whether it would be appropriate or necessary to have the type of order recommended in the complaint run against Steven Rizzi specifically, in view of the result already reached, no opinion is expressed as to that other issue.

ORDER

It is ordered, That the complaint be, and the same hereby is, dismissed as to Steven Rizzi.³

FINAL ORDER

No appeal from the summary initial decision of the administrative law judge dismissing the complaint as to individual respondent Steven Rizzi having been filed, and the Commission having determined that the case should not be placed on its own docket for review and that pursuant to Section 3.51 of the Commission's Rules of Practice (effective Aug. 15, 1971), the initial decision should be adopted and issued as the decision of the Commission:

It is ordered, That the initial decision of the administrative law judge shall, on the 3rd day of Jan. 1974, become the decision of the Commission.

³ This dismissal does not relieve Mr. Rizzi from his responsibility to respond to any subpoena that may require his appearance and testimony in the adjudicative proceedings.

IN THE MATTER OF

LORILLARD, DIVISION OF LOEWS THEATRES, INC., ET AL.
CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT

Docket C-2486. Complaint, Jan. 7, 1974—Decision, Jan. 7, 1974

Consent order requiring a New York City manufacturer, seller and distributor of cigarettes, among other things to cease misrepresenting the manner in which any promotion game, contest or device will be judged and failing to determine or judge entries in accordance with the published rules. Further, the order requires respondent to rejudge the "Kent Castle Contest," a 1971 promotion for Kent cigarettes, with Lorillard paying up to \$100,000 in costs for Blue Ribbon Promotions, Inc., a co-respondent, to rejudge the contest.

Appearances

For the Commission: *Ellis M. Ratner, F. Kaid Benfield and Richard A. Olderman.*

For the respondents: *Martin Kleinbard* of Paul, Weiss, Rifkind, Wharton & Garrison, New York, N.Y. and *James M. Nicholson* of *Nicholson Carter*, Washington, D. C. for Lorillard, Division of Loews Theatres, Inc. *Steven P. Raymond* of *Weisman, Celler, Spett, Modlin Wertheimer*, New York, N.Y. for Blue Ribbon Promotions, Inc. and Donald Jagoda.

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 Lorillard, a Division of Loews Theatres, Inc. hereinafter sometimes referred to as Lorillard, a corporation, and Blue Ribbon Promotions, Inc., a corporation, and Donald Jagoda, individually and as officer of Blue Ribbon Promotions, Inc., 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 Lorillard, Division of Loews Theatres, Inc., a corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 200 East 42nd Street, in the city of New York, State of New York.

Respondent Blue Ribbon Promotions, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the