

It is ordered, That the aforesaid motion to amend the notice order in this matter be, and it hereby is, denied.

IN THE MATTER OF

ATLANTIC INDUSTRIES, INC. T/A ATLANTIC
PORTRAIT PLAN, ETC., ET AL.

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

Docket 8941. Complaint, Oct. 31, 1973-Decision, May 28, 1975

Consent order requiring a Miami, Fla., marketer of a photographic enlargement plan and three wholly-owned subsidiaries, among other things to cease using deceptive means to sell its photographic enlargement plan and to collect accounts.

Appearances

For the Commission: *Edward J. Carnot* and *W. Roland Campbell*.
For the respondents: *Hogan & Hartson*, Wash., D.C.

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 Atlantic Industries, Inc., a corporation trading as Atlantic Portrait Plan and Atlantic Film Club, International Baby Care, Inc., Atlantic International Distributors, Inc., a corporation trading as Amalgamated Credit and Collection Bureau, National Direct Corporation, a corporation trading as National Advertised Products and International Album Plan, Jeffrey J. Weiss and Martin Osman, individually and as officers of said corporations, Lawrence Hahn, individually and as an officer of Atlantic Industries, Inc., and Richard S. Labovitz, individually and as an officer of International Baby Care, Inc. and Atlantic International Distributors, 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 Atlantic Industries, Inc., trading as Atlantic Portrait Plan, and Atlantic Film Club, is a corporation organized, existing and doing business under and by virtue of the laws

of the State of Florida, with its principal office and place of business located at 720 N.W. 27th Ave., Miami, Fla.

Respondent is now and for some time last past has been engaged in the advertising, offering for sale, sale and distribution of photographs, photograph albums, photograph enlargements, photograph certificates, film and other merchandise to the public.

Trading as Atlantic Portrait Plan, respondents' primary effort is to sell a photograph enlargement plan. Under the plan, the customer is entitled to have a specified number of enlargements developed by respondents over a ten-year period. The customer pays a lump sum, often on credit, for the plan and receives a book of coupons which are redeemable for the enlargements. Said products are sold chiefly by door-to-door salesmen.

Respondent, trading as Atlantic Film Club, operates a film processing service.

PAR. 2. Respondent International Baby Care, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its principal office and place of business at 720 N.W. 27th Ave., Miami, Fla. Respondent International Baby Care, Inc. is a wholly-owned subsidiary of respondent Atlantic Industries, Inc.

Respondent is now and for some time last past has been engaged in the advertising, offering for sale, sale and distribution of baby furniture products to the public.

PAR. 3. Respondent Atlantic International Distributors, Inc., trading as Amalgamated Credit and Collection Bureau, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida. The corporate address is 720 N.W. 27th Ave., Miami, Fla. Respondent Atlantic International Distributors, Inc. is a wholly-owned subsidiary of respondent Atlantic Industries, Inc.

Respondent Atlantic International Distributors, Inc. is now and for some time last past has been engaged in the collection of delinquent accounts for respondents Atlantic Industries, Inc. and International Baby Care, Inc.

PAR. 4. Respondent National Direct Corporation, trading as National Advertised Products and International Album Plan, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its principal office and place of business located at 720 N.W. 27th Ave., Miami, Fla. Respondent National Direct Distributors, Inc. is a wholly-owned subsidiary of respondent Atlantic Industries, Inc.

Respondent is now and for some time last past has been engaged in the advertising, offering for sale, sale and distribution of photographs,

photographic albums, photograph enlargements, photograph certificates, film and other merchandise to the public.

Trading as National Advertised Products, respondents' primary effort is to sell a photograph enlargement plan. Under the plan, the customer is entitled to have a specific number of enlargements developed by respondents. The customer pays a lump sum, often on credit, for the plan and receives a book of coupons which are redeemable for the enlargements. Said products are sold chiefly by door-to-door salesmen.

Trading as International Album Plan, respondents' primary effort is to sell a photograph enlargement plan. Under the plan, the customer is entitled to have a specific number of enlargements developed by respondents. The customer pays a lump sum, often on credit, for the plan and receives a book of coupons which are redeemable for the enlargements. Said products are sold chiefly by door-to-door salesmen.

PAR. 5. Respondents Jeffrey J. Weiss and Martin Osman are officers and directors of the four corporate respondents. Said individual respondents formulate, direct, and control the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth. The business address of the individual respondents is 720 N.W. 27th Ave., Miami, Fla.

Respondent Lawrence Hahn is a director of the four corporate respondents and an officer of respondent Atlantic Industries, Inc. In such positions, the respondent cooperates with the other individual respondents in formulating, directing, or controlling the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth. The business address of respondent Hahn is 2285 Peachtree Rd., N.W., Atlanta, Ga.

PAR. 6. Respondent Richard S. Labovitz is an officer of the corporate respondents International Baby Care, Inc. and Atlantic International Distributors, Inc. and as such cooperates with the other individual respondents in formulating, directing, and controlling the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth. The business address of respondent Labovitz is 720 N.W. 27th Ave., Miami, Fla.

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

COUNT I

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

PAR. 8. In the course and conduct of their aforesaid business, respondents now cause, and for some time last past have caused their said photographs, photograph albums, photograph enlargements, photograph certificates, film and other merchandise to be sold in various States of the United States, and when sold, to be shipped from their place of business in the State of Florida to purchasers thereof located in the various States. 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. 9. In the course and conduct of their business and for the purpose of inducing the purchase of their merchandise, respondents, respondents' agents, representatives, and employees have made and are now making numerous statements and representations directly or by implication:

1. That customers will receive a free prize, gift, or bonus, namely a photograph album, with the purchase of the photograph enlargement plan.

2. That certain but not all prospective customers will be offered the opportunity to purchase the plan at a "special" or "reduced" price and that those prospective customers not offered the "special" or "reduced" price must pay a higher price.

3. That the "special" or "reduced" price is below respondents' established regular retail price for the plan.

4. That the "special" or "reduced" price is an "at cost" price which includes only the cost to respondents of materials needed to print and develop the enlargements.

5. That in order to purchase the plan at the "special" or "reduced" price, the prospective customer must agree to display the photograph album in his home.

6. That the special price is being offered for the purpose of advertising and promoting respondents' product.

PAR. 10. In truth and in fact:

1. The album is not free. Its cost is included in the cost of the plan.

2. Every prospective customer is afforded the opportunity to purchase the plan at the "special" or "reduced" price and no customer has to pay any higher price.

3. The "special" or "reduced" price is not below respondents'

established regular retail price for the plan. Respondents have never offered nor sold the plan for any price higher than the so-called "special" or "reduced" price.

4. The so-called "special" or "reduced" price is not an "at cost" price. The cost of the plan includes more than the cost to respondents of materials needed to print and develop the enlargements.

5. The prospective customers agreement to display the photograph album is not a prerequisite to respondents selling the plan to the customer at the so-called "special" or "reduced" price.

6. Respondents' offer is made for the purpose of realizing a profit on the sale and not for the purpose of advertising or promoting their portrait plan.

Therefore, the statements and representations set forth in Paragraph Nine are misleading and deceptive.

PAR. 11. In the further course and conduct of their business, respondents' agents, representatives, and employees represent directly or by implication that single enlargements are regularly sold by respondents for \$7 each. Using \$7 to demonstrate value, respondents further represent:

1. That the 100 coupon plan which has a base selling price of \$189.95 is valued at over \$700.

2. That the 90 coupon plan which has a base selling price of \$149.95 is valued at over \$630.

3. That the 60 coupon plan which has a base selling price of \$89.95 is valued at over \$420.

4. That customers will save the difference between the value of the plan and the base selling price.

PAR. 12. By and through the use of the statements set out in Paragraph Eleven above, and others of similar import and meaning but not expressly set out herein, respondents have represented, and are now representing that on a regular basis for a reasonably substantial period of time in the recent regular course of their business, single enlargements have been sold for \$7 and further that \$7 per enlargement would be a fair and accurate amount to use in determining the value of respondents' plan.

PAR. 13. In truth and in fact respondents have not sold single enlargements for \$7 or any other price on a regular basis for a reasonably substantial period of time in the recent regular course of their business. Therefore, any demonstration of value or savings based on the \$7 amount such as those described in Paragraph Eleven above would be false and misleading.

In addition, when demonstrating savings to customers, respondents neglect to add to the base price of the plan an amount equal to seventy-

five cents per enlargement which respondents charge to cover mailing and handling. Respondents failure to include this extra charge is deceptive and misleading because such failure results in an inflation of the amount a customer might save by purchasing the plan.

PAR. 14. In the course and conduct of respondents' operations of the film processing service and for the purpose of inducing the purchase of their developing and printing services, respondents, respondents' agents, representatives and employees have made, and are now making statements and representations to customers that customers will receive a fresh roll of Kodak film FREE with each roll of film developed or printed by respondents. The free film has been offered by respondents continuously for a period of at least two years.

PAR. 15. By and through the use of the word "free" respondents have represented directly or through implication that the price charged by respondents is for processing alone and does not include any payment for the film.

PAR. 16. In truth and in fact, the film is not free because the continuous offer of free film over a long period of time has resulted in the price for the processing service alone becoming the regular price for the processing *and* film in combination.

Thus, the statements and representations set out in Paragraphs Fourteen and Fifteen above are false and misleading.

PAR. 17. The use by 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 statements and representations were and are true and into the purchase of substantial quantities of respondents' merchandise because of such erroneous and mistaken belief.

PAR. 18. The aforesaid acts and practices of respondents, as alleged herein, 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 violations of Section 5 of the Federal Trade Commission Act, the allegations of Paragraphs One, Two, Four, Five, Six and Seven hereof are incorporated by reference in Count II as if fully set forth verbatim.

PAR. 19. In the course and conduct of their aforesaid business, respondents now cause, and for some time last past have caused their

said photographs, photograph albums, photograph enlargements, photograph certificates, film, baby furniture, and other merchandise to be sold in various States of the United States, and when sold, to be shipped from their place of business in the State of Florida to purchasers thereof located in various States. 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. 20. In the course and conduct of respondents' business, respondents' agents, representatives and employees have made, directly or by implication, statements and representations to customers that contracts entered into between respondents and said customers are non-cancellable. However, such statements are false, misleading and deceptive because in truth and in fact state statutes provide customers a right to cancel.

PAR. 21. The use by 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 statements and representations were and are true.

PAR. 22. The aforesaid acts and practices of respondents, as alleged herein, 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 III

Alleging violations of Section 5 of the Federal Trade Commission Act, the allegations of Paragraphs One, Two, Three, Four, Five, Six and Seven hereof are incorporated by reference in Count III as if fully set forth verbatim.

PAR. 23. In the course and conduct of their aforesaid business, respondents now cause and for some time last past have caused, letters, forms, and various other kinds and types of documents relating to the collection of delinquent accounts to be deposited in the United States mail and transmitted to persons located in the various States of the United States, all of which constitute a part of the course of trade in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 24. In the furtherance of their business and for the purpose of inducing the payment of purportedly delinquent accounts, respondents, respondents' agents, representatives, and employees have sent or

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caused to be sent through the mail, letters, forms, and other printed matter in which respondents make certain statements and representations to purportedly delinquent customers. Typical, but not all inclusive of said statements and representations are the following:

1.

(Letterhead)

AMALGAMATED CREDIT AND COLLECTION BUREAU

P. O. Box 781

Bronx General Post Office

Bronx, New York 10451

Dear Debtor:

Your account has been given to us by Atlantic Portrait Plan * * *. To avoid an embarrassing and expensive situation, mail your check or money order *directly* to Amalgamated Credit and Collection Bureau.

2. The above account has for value received been assigned to the credit bureau for immediate collection procedure.

3.

FINAL NOTICE

* * * You are hereby notified that we intend to institute legal action to be brought against you for the entire balance of your account.

4. If you do not see fit to take care of this small matter and honor your obligations, we will have no alternative but to collect through the Small Claims Court.

PAR. 25. By and through the use of the aforesaid statements and representations described in Paragraph Twenty-Four above and others of similar import not specifically set out herein, respondents represent and have represented directly or by implication that:

1. Delinquent accounts have been turned over or assigned for value by respondents to an independent credit and collection bureau.

2. If payments are not made, respondents will institute suit or take other legal action to collect the outstanding amount due.

PAR. 26. Such statements as those set out in Paragraphs Twenty-Four and Twenty-Five above are false and misleading because in truth and in fact:

1. Accounts have not been turned over nor assigned for value to independent credit and collection bureaus. Respondent Atlantic International Distributors, Inc., trading as Amalgamated Credit and Collection Bureau, is a corporate device used by Atlantic Industries, Inc. and the individual respondents. By use of the device respondents hope to effect the collection of delinquent accounts by representing and implying that the respondent Amalgamated Credit and Collection Bureau is an independent collection agency.

2. Respondents seldom, if ever, bring legal action to collect delinquent accounts.

PAR. 27. In the further course and conduct of the collection of

delinquent accounts, respondents send or cause to be sent forms, such as the one entitled "Demand for the Payment of Debt," designed to mislead the recipient into believing that such form was sent by a government body or one of its agencies.

PAR. 28. The use by 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 statements and representations were and are true and into the payment of said delinquent accounts because of such erroneous and mistaken belief.

PAR. 29. The aforesaid acts and practices of respondents, as alleged herein, 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.

ORDER AMENDING COMPLAINT

By motion filed Dec. 19, 1973, complaint counsel have requested that the complaint be amended in several respects and that certain amendments be made to the preamble to the form of order served with the complaint. Specifically, complaint counsel have requested that the following amendments be made:

(1) Amend subparagraph 2 of Paragraph Ten of Count I to read:
2. Most, if not all, prospective customers are afforded the opportunity to purchase the plan at the "special" or "reduced" price and no customer has to pay any higher price.

(2) Amend subparagraph 3 of Paragraph Ten of Count I to read:
3. The "special" or "reduced" price is not below respondents' established regular retail price of the plan. Respondents seldom, if ever, have offered or sold the plan for any price higher than the so called "special" or "reduced" price.

(3) Amend subparagraph 1 of Paragraph Eleven of Count I to read:
1. That the 100-coupon plan, which has a base selling price of \$199.95 or \$189.95, is valued at over \$700.

(4) Add as subparagraph 7 to Paragraph Nine of Count I:
7. That the purpose of respondents' initial contact with the prospect is to give a surprise which was sent out by respondents' public relations department, or to present an advertising promotion or to make a courtesy presentation, or is for purposes other than the sale of respondents' products or services.

(5) Add as subparagraph 7 to Paragraph Ten of Count I:

7. Respondents' sales representatives have not and are not contacting persons in their homes or places of business primarily for the purpose of giving a surprise, presenting an advertising promotion or making a courtesy presentation. To the contrary, the primary purpose for contacting such persons has been and is to sell respondents' products or services.

(6) Amend the preamble to Part I of the proposed order by substituting the word "or" for the word "and" in the tenth line thereof.

(7) Amend the preamble to Part II of the proposed order by substituting the word "or" for the word "and" in the eleventh line thereof.

Respondents have filed response to complaint counsel's motion to amend the complaint wherein they do not oppose the proposed amendments numbered (1), (2), (3), (6) and (7) as set forth above. Complaint counsel have filed a reply to respondents' response, which reply has been accepted into the record and duly considered by the undersigned.

The authority of the administrative law judge to amend a complaint is set forth in Section 3.15(a)(1) of the Commission's Rules of Practice. This section of the rules provides that the administrative law judge may allow appropriate amendments to the complaint, if a determination of the controversy on the merits will be facilitated thereby; *Provided, however*, That motions for amendments may be allowed only if the amendment is "reasonably within the scope of the original complaint." Motions for other amendments to complaints shall be certified to the Commission.

The Commission has on a number of occasions interpreted this section. In *Standard Camera Corp., et al.*, 63 F.T.C. 1238, 1266 (1963), the Commission stated:

Our Rules of Practice empower a hearing examiner to allow appropriate amendments to the pleadings. Such power is limited, however, by the caveat that the amendments must be "reasonably within the scope of the proceeding initiated by the original complaint." Where the effect of the amendment is an alteration of the underlying theory behind the complaint, or where it alleges substantially different acts or practices on the part of the respondent, or where it requires different determinations with respect to the belief that a violation has occurred and that the public interest is jeopardized, the hearing examiner is without power to authorize it. * * * Thus, where an amendment impinges upon powers exercised exclusively by the Commission, it is incumbent upon the hearing examiner to certify the matter to us for determination.

Accordingly, the requested amendments to subparagraphs 2 and 3 of Paragraph Ten and subparagraph 1 of Paragraph Eleven of Count I are hereby granted. These subparagraphs will be amended as requested by complaint counsel and as set forth hereinabove. These amendments involve a restatement of the methods employed by respondents in effectuating the practices alleged to be unlawful and are so related to

the subject matter of this proceeding as to be well within the scope of the original complaint (see *Capitol Records Distributing Corporation*, 58 F.T.C. 1170, 1174 (1961)). Further, such amendments will facilitate a determination of this controversy on the merits and will not prejudice the public interest or the rights of the parties hereto.

The amendments requested to be made to the preamble of Part I and the preamble of Part II of the form of order served with the complaint are hereby denied. In the first place, the form of order served with the complaint is not a pleading as such; it does not set forth allegations of unlawful conduct. Further, it is subject to change or modification if record facts adduced during the proceeding make such further or other relief necessary.

Additionally, the proposed amendments to the form of order are insignificant. The conjunction "and" is construed to mean "as well as," and is a reference to "either or both." "And" is sometimes interpreted as if it were the word "or," which is an alternative, a choice of either.

Since the form of order, at least at this juncture, does not require such precision of language as does the complaint, and since the requested amendments are in reality insignificant, the proposed amendments to the preamble to Part I and the preamble to Part II of the form of order served with the complaint are denied.

The amendments requesting the *additions* of subparagraph 7 to Paragraph Nine and subparagraph 7 to Paragraph Ten fall in a different category. These proposed amendments allege substantially different acts and practices from those which are alleged in the complaint. The complaint in Paragraphs Nine and Ten is concerned with "free" gifts with the purchase of respondents' products, or "special" or "reduced" prices in connection with the sale of respondents' products. The amendments proposed by complaint counsel are new subparagraphs to be added to the complaint which challenge as unlawful respondents' initial contact with a prospective purchaser. There is no indication in the complaint, as issued, that the proposed respondents' initial contact with prospective purchasers is unlawful, or is to be challenged in this proceeding. Accordingly, complaint counsel's motion to add a subparagraph 7 to Paragraph Nine and a subparagraph 7 to Paragraph Ten will be certified to the Federal Trade Commission for a determination, since it appears that these proposed amendments, if warranted, are beyond the authority vested in the administrative law judge. Accordingly,

It is ordered, That subparagraphs 2 and 3 of Paragraph Ten and subparagraph 1 of Paragraph Eleven of Count I are amended to read as follows:

Subparagraph 2 and 3 of Paragraph Ten of Count I to read:

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2. Most, if not all, prospective customers are afforded the opportunity to purchase the plan at the "special" or "reduced" price and no customer has to pay any higher price.

3. The "special" or "reduced" price is not below respondents' established regular retail price of the plan. Respondents seldom, if ever, have offered or sold the plan for any price higher than the so-called "special" or "reduced" price.

Subparagraph 1 of Paragraph Eleven of Count I to read:

1. That the 100-coupon plan, which has a base selling price of \$199.95 or \$189.95, is valued at over \$700.

ORDER AMENDING COMPLAINT

By motion filed Dec. 19, 1973, complaint counsel moved to amend the complaint. Upon consideration of respondents' answer and complaint counsel's reply, the administrative law judge disposed of all but two of the requested amendments, concluding that they were not reasonably within the scope of the original complaint. Pursuant to Rule 3.15(a) of the Commission's Rules of Practice, the law judge certified them to the Commission on Jan. 14, 1974. The amendments in question allege misrepresentations made by respondents' sales representatives as to the purpose of their initial contacts with prospective customers.

Upon consideration of the arguments in the pleadings, and the law judge's certification, the Commission has concluded that there is reason to believe that the misrepresentations alleged in the certified amendments were made and constitute violations of Section 5 of the Federal Trade Commission Act; that it is in the public interest to try said misrepresentations together with those alleged in the original complaint rather than separately and; that any possible prejudice to respondents can be avoided through the grant of additional time. Accordingly,

It is ordered, That complaint counsel's motion to amend, as certified to the Commission, be, and it hereby is, granted; and that the complaint be, and it hereby is, amended as follows:

Add as subparagraph 7 to Paragraph Nine of Count I:

7. That the purpose of respondents' initial contact with the prospect is to give a surprise which was sent out by respondents' Public Relations Department, or to present an advertising promotion or to make a courtesy presentation, or is for purposes other than the sale of respondents' products or services.

Add as subparagraph 7 to Paragraph Ten of Count I:

7. Respondents' sales representatives have not and are not contacting persons in their homes or places of business primarily for the purpose of giving a surprise, presenting an advertising promotion

or making a courtesy presentation. To the contrary, the primary purpose for contacting such persons has been and is to sell respondents' products or services.

It is further ordered, That the administrative law judge shall cause to be served upon respondents copies of the complaint, as amended herein, and by his order of Jan. 14, 1974.

ORDER SERVING RESPONDENTS WITH AMENDED COMPLAINT

By order of July 9, 1974, the Commission amended the complaint herein and directed that the administrative law judge cause to be served upon respondents copies of the complaint, as amended by the Commission on July 9, 1974, and as amended by the administrative law judge by order of Jan. 14, 1974. Accordingly,

It is ordered, That the complaint, as amended, be herewith served upon respondents, as per copy attached hereto.

It is further ordered, That respondents be, and they hereby are, given ten (10) days from the date of receipt of the amended complaint in which to file an answer thereto.

AMENDED 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 Atlantic Industries, Inc., a corporation trading as Atlantic Portrait Plan and Atlantic Film Club, International Baby Care, Inc., Atlantic International Distributors, Inc., a corporation trading as Amalgamated Credit and Collection Bureau, National Direct Corporation, a corporation trading as National Advertised Products and International Album Plan, Jeffrey J. Weiss and Martin Osman, individually and as officers of said corporations, Lawrence Hahn, individually and as an officer of Atlantic Industries, Inc., and Richard S. Labovitz, individually and as an officer of International Baby Care, Inc. and Atlantic International Distributors, 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 amended complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Atlantic Industries, Inc., trading as Atlantic Portrait Plan, and Atlantic Film Club, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its principal office and place of business located at 720 N.W. 27th Ave., Miami, Fla.

Respondent is now and for some time last past has been engaged in the advertising, offering for sale, sale and distribution of photographs, photograph albums, photograph enlargements, photograph certificates, film and other merchandise to the public.

Trading as Atlantic Portrait Plan, respondents' primary effort is to sell a photograph enlargement plan. Under the plan, the customer is entitled to have a specified number of enlargements developed by respondents over a ten year period. The customer pays a lump sum, often on credit, for the plan and receives a book of coupons which are redeemable for the enlargements. Said products are sold chiefly by door-to-door salesmen.

Respondent, trading as Atlantic Film Club, operates a film processing service.

PAR. 2. Respondent International Baby Care, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its principal office and place of business at 720 N.W. 27th Ave., Miami, Fla. Respondent International Baby Care, Inc. is a wholly-owned subsidiary of respondent Atlantic Industries, Inc.

Respondent is now and for some time last past has been engaged in the advertising, offering for sale, sale and distribution of baby furniture products to the public.

PAR. 3. Respondent Atlantic International Distributors, Inc., trading as Amalgamated Credit and Collection Bureau, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida. The corporate address is 720 N.W. 27th Ave., Miami, Fla. Respondent Atlantic International Distributors, Inc. is a wholly-owned subsidiary of respondent Atlantic Industries, Inc.

Respondent Atlantic International Distributors, Inc. is now and for some time last past has been engaged in the collection of delinquent accounts for respondents Atlantic Industries, Inc. and International Baby Care, Inc.

PAR. 4. Respondent National Direct Corporation, trading as National Advertised Products and International Album Plan, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its principal office and place of business located at 720 N.W. 27th Ave., Miami, Fla. Respondent National Direct Distributors, Inc. is a wholly-owned subsidiary of respondent Atlantic Industries, Inc.

Respondent is now and for some time last past has been engaged in the advertising, offering for sale, sale and distribution of photographs, photographic albums, photograph enlargements, photograph certificates, film and other merchandise to the public.

Trading as National Advertised Products, respondents' primary effort is to sell a photograph enlargement plan. Under the plan, the customer is entitled to have a specific number of enlargements developed by respondents. The customer pays a lump sum, often on credit, for the plan and receives a book of coupons which are redeemable for the enlargements. Said products are sold chiefly by door-to-door salesmen.

Trading as International Album Plan, respondents' primary effort is to sell a photograph enlargement plan. Under the plan, the customer is entitled to have a specific number of enlargements developed by respondents. The customer pays a lump sum, often on credit, for the plan and receives a book of coupons which are redeemable for the enlargements. Said products are sold chiefly by door-to-door salesmen.

PAR. 5. Respondents Jeffrey J. Weiss and Martin Osman are officers and directors of the four corporate respondents. Said individual respondents formulate, direct, and control the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth. The business address of the individual respondents is 720 N.W. 27th Ave., Miami, Fla.

Respondent Lawrence Hahn is a director of the four corporate respondents and an officer of respondent Atlantic Industries, Inc. In such positions, the respondent cooperates with the other individual respondents in formulating, directing, or controlling the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth. The business address of respondent Hahn is 2285 Peachtree Rd., N.W., Atlanta, Ga.

PAR. 6. Respondent Richard S. Labovitz is an officer of the corporate respondents International Baby Care, Inc., and Atlantic International Distributors, Inc. and as such cooperates with the other individual respondents in formulating, directing, and controlling the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth. The business address of respondent Labovitz is 720 N.W. 27th Ave., Miami, Fla.

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

COUNT I

Alleging violations of Section 5 of the Federal Trade Commission

Act, the allegations of Paragraphs One, Four, Five and Seven hereof are incorporated by reference in Count I as if fully set forth verbatim.

PAR. 8. In the course and conduct of their aforesaid business, respondents now cause, and for some time last past have caused their said photographs, photograph albums, photograph enlargements, photograph certificates, film and other merchandise to be sold in various States of the United States, and when sold, to be shipped from their place of business in the State of Florida to purchasers thereof located in the various States. 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. 9. In the course and conduct of their business and for the purpose of inducing the purchase of their merchandise, respondents, respondents' agents, representatives, and employees have made and are now making numerous statements and representations directly or by implication:

1. That customers will receive a free prize, gift, or bonus, namely a photograph album, with the purchase of the photograph enlargement plan.

2. That certain but not all prospective customers will be offered the opportunity to purchase the plan at a "special" or "reduced" price and that those prospective customers not offered the "special" or "reduced" price must pay a higher price.

3. That the "special" or "reduced" price is below respondents' established regular retail price for the plan.

4. That the "special" or "reduced" price is an "at cost" price which includes only the cost to respondents of materials needed to print and develop the enlargements.

5. That in order to purchase the plan at the "special" or "reduced" price, the prospective customer must agree to display the photograph album in his home.

6. That the special price is being offered for the purpose of advertising and promoting respondents' product.

7. That the purpose of respondents' initial contact with the prospect is to give a surprise which was sent out by respondents' public relations department, or to present an advertising promotion or to make a courtesy presentation, or is for purposes other than the sale of respondents' products or services.

PAR. 10. In truth and in fact:

1. The album is not free. Its cost is included in the cost of the plan.

2. Most, if not all, prospective customers are afforded the oppor-

tunity to purchase the plan at the "special" or "reduced" price and no customer has to pay any higher price.

3. The "special" or "reduced" price is not below respondents' established regular retail price of the plan. Respondents seldom, if ever, have offered or sold the plan for any price higher than the so-called "special" or "reduced" price.

4. The so-called "special" or "reduced" price is not an "at cost" price. The cost of the plan includes more than the cost to respondents of materials needed to print and develop the enlargements.

5. The prospective customers agreement to display the photograph album is not a prerequisite to respondents selling the plan to the customer at the so-called "special" or "reduced" price.

6. Respondents' offer is made for the purpose of realizing a profit on the sale and not for the purpose of advertising or promoting their portrait plan.

7. Respondents' sales representatives have not and are not contacting persons in their homes or places of business primarily for the purpose of giving a surprise, presenting an advertising promotion or making a courtesy presentation. To the contrary, the primary purpose for contacting such persons has been and is to sell respondents' products or services.

Therefore, the statements and representations set forth in Paragraph Nine are misleading and deceptive.

PAR. 11. In the further course and conduct of their business, respondents' agents, representatives, and employees represent directly or by implication that single enlargements are regularly sold by respondents for \$7 each. Using \$7 to demonstrate value, respondents further represent:

1. That the 100-coupon plan, which has a base selling price of \$199.95 or \$189.95, is valued at over \$700.

2. That the 90-coupon plan which has a base selling price of \$149.95 is valued at over \$630.

3. That the 60-coupon plan which has a base selling price of \$89.95 is valued at over \$420.

4. That customers will save the difference between the value of the plan and the base selling price.

PAR. 12. By and through the use of the statements set out in Paragraph Eleven above, and others of similar import and meaning but not expressly set out herein, respondents have represented, and are now representing that on a regular basis for a reasonably substantial period of time in the recent regular course of their business, single enlargements have been sold for \$7 and further that \$7 per

enlargement would be a fair and accurate amount to use in determining the value of respondents' plan.

PAR. 13. In truth and in fact respondents have not sold single enlargements for \$7 or any other price on a regular basis for a reasonably substantial period of time in the recent regular course of their business. Therefore, any demonstration of value or savings based on the \$7 amount such as those described in Paragraph Eleven above would be false and misleading.

In addition, when demonstrating savings to customers, respondents neglect to add to the base price of the plan an amount equal to seventy-five cents per enlargement which respondents charge to cover mailing and handling. Respondents failure to include this extra charge is deceptive and misleading because such failure results in an inflation of the amount a customer might save by purchasing the plan.

PAR. 14. In the course and conduct of respondents' operations of the film processing service and for the purpose of inducing the purchase of their developing and printing services, respondents, respondents' agents, representatives and employees have made, and are now making statements and representations to customers that customers will receive a fresh roll of Kodak film FREE with each roll of film developed or printed by respondents. The free film has been offered by respondents continuously for a period of at least two years.

PAR. 15. By and through the use of the word "free" respondents have represented directly or through implication that the price charged by respondents is for processing alone and does not include any payment for the film.

PAR. 16. In truth and in fact, the film is not free because the continuous offer of free film over a long period of time has resulted in the price for the processing service alone becoming the regular price for the processing *and* film in combination.

Thus, the statements and representations set out in Paragraphs Fourteen and Fifteen above are false and misleading.

PAR. 17. The use by 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 statements and representations were and are true and into the purchase of substantial quantities of respondents' merchandise because of such erroneous and mistaken belief.

PAR. 18. The aforesaid acts and practices of respondents, as alleged herein, 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 violations of Section 5 of the Federal Trade Commission Act, the allegations of Paragraphs One, Two, Four, Five, Six and Seven hereof are incorporated by reference in Count II as if fully set forth verbatim.

PAR. 19. In the course and conduct of their aforesaid business, respondents now cause, and for some time last past have caused their said photographs, photograph albums, photograph enlargements, photograph certificates, film, baby furniture, and other merchandise to be sold in various States of the United States, and when sold, to be shipped from their place of business in the State of Florida to purchasers thereof located in various States. 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. 20. In the course and conduct of respondents' business, respondents' agents, representatives and employees have made, directly or by implication, statements and representations to customers that contracts entered into between respondents and said customers are non-cancellable. However, such statements are false, misleading and deceptive because in truth and in fact state statutes provide customers a right to cancel.

PAR. 21. The use by 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 statements and representations were and are true.

PAR. 22. The aforesaid acts and practices of respondents, as alleged herein, 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 III

Alleging violations of Section 5 of the Federal Trade Commission Act, the allegations of Paragraphs One, Two, Three, Four, Five, Six and Seven hereof are incorporated by reference in Count III as if fully set forth verbatim.

Amended Complaint

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PAR. 23. In the course and conduct of their aforesaid business, respondents now cause and for some time last past have caused, letters, forms, and various other kinds and types of documents relating to the collection of delinquent accounts to be deposited in the United States mail and transmitted to persons located in the various States of the United States, all of which constitute a part of the course of trade in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 24. In the furtherance of their business and for the purpose of inducing the payment of purportedly delinquent accounts, respondents, respondents' agents, representatives, and employees have sent or caused to be sent through the mail, letters, forms, and other printed matter in which respondents make certain statements and representations to purportedly delinquent customers. Typical, but not all inclusive of said statements and representations are the following:

1.

(Letterhead)

AMALGAMATED CREDIT AND COLLECTION BUREAU

P. O. Box 781

Bronx General Post Office

Bronx, New York 10451

Dear Debtor:

Your account has been given to us by Atlantic Portrait Plan * * *. To avoid an embarrassing and expensive situation, mail your check or money order *directly* to Amalgamated Credit and Collection Bureau.

2. The above account has for value received been assigned to the credit bureau for immediate collection procedure.

3.

FINAL NOTICE

* * * You are hereby notified that we intend to institute legal action to be brought against you for the entire balance of your account.

4. If you do not see fit to take care of this small matter and honor your obligations, we will have no alternative but to collect through the Small Claims Court.

PAR. 25. By and through the use of the aforesaid statements and representations described in Paragraph Twenty-Four above and others of similar import not specifically set out herein, respondents represent and have represented directly or by implication that:

1. Delinquent accounts have been turned over or assigned for value by respondents to an independent credit and collection bureau.

2. If payments are not made, respondents will institute suit or take other legal action to collect the outstanding amount due.

PAR. 26. Such statements as those set out in Paragraphs Twenty-

Four and Twenty-Five above are false and misleading because in truth and in fact:

1. Accounts have not been turned over nor assigned for value to independent credit and collection bureaus. Respondent Atlantic International Distributors, Inc., trading as Amalgamated Credit and Collection Bureau, is a corporate device used by Atlantic Industries, Inc. and the individual respondents. By use of the device respondents hope to effect the collection of delinquent accounts by representing and implying that the respondent Amalgamated Credit and Collection Bureau is an independent collection agency.

2. Respondents seldom, if ever, bring legal action to collect delinquent accounts.

PAR. 27. In the further course and conduct of the collection of delinquent accounts, respondents send or cause to be sent forms, such as the one entitled "Demand for the Payment of Debt," designed to mislead the recipient into believing that such form was sent by a government body or one of its agencies.

PAR. 28. The use by 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 statements and representations were and are true and into the payment of said delinquent accounts because of such erroneous and mistaken belief.

PAR. 29. The aforesaid acts and practices of respondents, as alleged herein, 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 hereto 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 hereafter 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 provisionally accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of sixty (60) days, 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 Section 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 Atlantic Industries, Inc., trading as Atlantic Portrait Plan, and Atlantic Film Club, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its principal office and place of business located at 720 N.W. 27th Ave., Miami, Fla.

2. Respondent International Baby Care, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its principal office and place of business at 720 N.W. 27th Ave., Miami, Fla. Respondent International Baby Care, Inc. is a wholly-owned subsidiary of respondent Atlantic Industries, Inc.

3. Respondent Atlantic International Distributors, Inc., trading as Amalgamated Credit and Collection Bureau, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida. The corporate address is 720 N.W. 27th Ave., Miami, Fla. Respondent Atlantic International Distributors, Inc. is a wholly-owned subsidiary of respondent Atlantic Industries, Inc.

4. Respondent National Direct Corporation, trading as National Advertised Products and International Album Plan, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its principal office and place of business located at 720 N.W. 27th Ave., Miami, Fla. Respondent National Direct Corporation is a wholly-owned subsidiary of respondent Atlantic Industries, Inc.

5. Respondents Jeffrey J. Weiss and Martin Osman are officers and directors of the four corporate respondents. Said individual respondents formulate, direct and control the acts and practices of the corporate respondents. The business address of the individual respondents is 720 N.W. 27th Ave., Miami, Fla.

Respondent Lawrence Hahn is a director of the four corporate respondents and an officer of respondent, Atlantic Industries, Inc. In

such positions, he cooperates with the other individual respondents in formulating, directing or controlling the acts and practices of the corporate respondents. The business address of respondent Hahn is 2285 Peachtree Rd., N.W., Atlanta, Ga.

6. Respondent Richard S. Labovitz is an officer of the corporate respondent International Baby Care, Inc., and as such cooperates with the other individual respondents in formulating, directing and controlling the acts and practices of the corporate respondent. The business address of respondent Labovitz is 720 N.W. 27th Ave., Miami, Fla.

7. 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 Atlantic Industries, Inc., a corporation trading as Atlantic Portrait Plan and Atlantic Film Club, International Baby Care, Inc., National Direct Corporation, a corporation trading as National Advertised Products and International Album Plan or under any other name, its successors and assigns and Jeffrey J. Weiss, Martin Osman and Lawrence Hahn, individually and as officers and directors 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 photographs, photograph albums, photograph enlargements, photograph certificates, film or any other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

I

1. Representing, orally or in writing, directly or by implication:
 - a. That any customer will receive a free prize, gift, or bonus with the purchase of a photograph enlargement plan or any other merchandise sold by respondents when the cost of such prize, gift or bonus is included in the price of the purchased merchandise.
 - b. That any offer to sell at a special or reduced price is limited to certain persons and is not available to all persons.
 - c. That any person not offered the special or reduced price must pay a higher price.
 - d. That any price of a product or service is special or reduced unless such price is below the amount at which such product or service has been sold by respondents for a reasonably substantial period of time in the recent regular course of their business.

- e. That any product is sold at cost.
 - f. That any offer is conditioned upon specified action by the customer.
 - g. That the purpose of respondents' contact or solicitation is other than to sell services or products for profit.
2. Failing, clearly, emphatically and unqualifiedly to reveal, at the outset of the initial and all subsequent contacts or solicitations of purchasers or prospective purchasers, whether directly or indirectly, or by telephone, written or printed communication, or person-to-person, that the purpose of such contact or solicitation is to sell products or services as the case may be, which shall be identified with particularity at the time of each such contact or solicitation.
 3. Representing, orally or in writing, directly or by implication, that any amount is respondents' usual and customary retail price for any product or service unless such amount is the price at which such product has been usually and customarily sold at retail by respondents for a reasonably substantial period of time in the recent regular course of business.
 4. Representing any price as respondents' usual and customary price to demonstrate the value of a photo enlargement or any other product or service when such price is in excess of the price at which such product has been usually and customarily sold at retail by respondents for a reasonably substantial period of time in the recent regular course of business.
 5. Representing, in any manner, that by purchasing any of respondents' merchandise or services, customers are afforded savings, amounting to the difference between respondents' stated price and a compared value price for comparable merchandise or service unless substantial sales of merchandise or services of like grade and quality are made in the trade area at the compared price and unless respondents have in good faith conducted a market survey or obtained a similar representative sample of prices in the trade area in which the comparison is made which establishes the validity of said compared price and it is clearly and conspicuously disclosed that the comparison is with merchandise or services of like grade and quality.
 6. Failing to disclose any charges or costs in representing savings to customers in the purchase of any product or service.
 7. Misrepresenting in any manner the amount of savings available to purchasers of respondents' products or services.
 8. Representing, directly or by implication, in any manner, that any price is reduced from respondents' former price or that any savings will accrue to the customer through purchase of respondents' merchandise or service unless respondents' business records establish and show that

such prices constitute a significant reduction from the price at which such merchandise has been sold in substantial quantities or openly and actively offered for sale in good faith for a reasonable substantial period of time by respondents in the recent regular course of their business.

9. Making any statements or representations to film processing customers that "free" film will be given in connection with the sale of such service, unless the price charged therefor is respondents' usual and customary price for the film processing service alone.

II

It is further ordered, That respondents Atlantic Industries, Inc., a corporation trading as Atlantic Portrait Plan and Atlantic Film Club, National Direct Corporation, a corporation trading as National Advertised Products and International Album Plan, or under any other name, International Baby Care, Inc., a corporation, the corporations' successors and assigns, and Jeffrey J. Weiss, Martin Osman, Lawrence Hahn and Richard S. Labovitz, individually and as officers or directors 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 photographs, photograph albums, photograph enlargements, photograph certificates, film, baby furniture or other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or in any other manner, that contracts entered into between respondents and their customers are noncancellable.

2. Failing to furnish the buyer with a fully completed receipt or copy of any contract pertaining to such sale at the time of its execution, which is in the same language, *e.g.*, Spanish, as that principally used in the oral sales presentation and which shows the date of the transaction and contains the name and address of the seller, and in immediate proximity to the space reserved in the contract for the signature of the buyer or on the front page of the receipt if a contract is not used and in bold face type of a minimum size of 10 points, a statement in substantially the following form:

You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right.

3. Failing to furnish each buyer, at the time he signs the door-to-door sales contract or otherwise agrees to buy consumer goods or services from the seller, a completed form in duplicate, captioned

"NOTICE OF CANCELLATION," which shall be attached to the contract or receipt and easily detachable, and which shall contain a 10-point bold face type the following information and statements in the same language, *e.g.*, Spanish, as that used in the contract:

NOTICE OF CANCELLATION

(enter date of transaction)

You may cancel this transaction, without any penalty or obligation, within three (3) business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within ten (10) business days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale; or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within twenty (20) days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice or any other written notice, or send a telegram to _____ (*name of seller*) at (*address of seller's place of business*) not later than midnight of _____ (*date*)

I hereby cancel this transaction.

(date)

(buyer's signature)

4. Failing, before furnishing copies of the "Notice of Cancellation" to the buyer, to complete both copies by entering the name of the seller, the address of the seller's place of business, the date of the transaction, and the date, not earlier than the third business day following the date of the transaction, by which the buyer may give notice of cancellation.

5. Failing to inform each buyer orally, at the time he signs the contract or purchases the goods or services, of his right to cancel.

6. Misrepresenting in any manner the buyer's right to cancel.

7. Failing or refusing to honor any valid notice of cancellation by a buyer and within ten (10) business days after the receipt of such notice, to: (1) refund all payments made under the contract or sale; and (2) return any goods or property traded in, in substantially as good condition as when received by the seller.

8. Failing, within ten (10) business days of receipt of the buyer's

notice of cancellation, to notify him whether the seller intends to repossess or to abandon any shipped or delivered goods.

Provided, however, That nothing contained in Count II of this order shall relieve respondents of any contractual obligations required by federal law or that law of the State in which the contract is negotiated. When such obligations are inconsistent, respondents may apply to the Commission for relief from this provision with respect to contract executed in the state in which such different obligations are required.

III

It is further ordered, That respondents Atlantic Industries, Inc., trading as Atlantic Portrait Plan and Atlantic Film Club, or under any other name, International Baby Care, Inc., a corporation and Atlantic International Distributors, Inc., a corporation trading as Amalgamated Credit and Collection Bureau, or under any other name, National Direct Corporation, a corporation trading as National Advertised Products and International Album Plan, or under any other name, the corporations' successors and assigns, and Jeffrey J. Weiss, Martin Osman, Lawrence Hahn and Richard S. Labovitz, individually and as officers or directors of said corporations and respondents' agents, representatives and employees, directly or through any corporate or other device in connection with the collection of delinquent accounts in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, in any manner, that an account has been turned over or assigned for value to an independent credit and collection bureau.
2. Representing, orally or in writing, directly or by implication, in order to effect payment of any account, that respondents intend to institute legal action to recover for any payment due, unless respondents establish by adequate records that a prior determination had been made in good faith to institute such legal action.
3. Using the form "Demand for the Payment of Debt" or any other form which misleads or has the tendency to mislead the recipient into believing that such form was sent by a government body or one of its agencies.

IV

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

It is further ordered, That respondents shall:

1. Provide each of their present and future branch managers, and

other supervisory personnel engaged in the sale or supervision of persons engaged in the sale of respondents' photography products or services, written instructions with respect to the provisions of this order which are applicable to the functions of each such person.

2. Require each person so described in Paragraph (1) above to clearly and fully explain the applicable provisions of this order to all sales agents, representatives and other persons engaged in the sale of the respondents' photography products or services.

3. Provide each person so described in Paragraphs (1) and (2) above with a form returnable to the respondents clearly stating his intention to be bound by and to conform his business practices to the applicable provisions of this order; retain said statement during the period said person is so engaged and make said statement available to the Commission's staff for inspection and copying upon request.

4. Inform each person described in Paragraphs (1) and (2) above that respondents shall not use any third party, or the services of any third party, if such third party will not agree to so file and does file notice with the respondents that it will be bound by the applicable provisions of this order.

5. If such third party will not agree to so file notice with respondents and be bound by the applicable provisions of the order, respondents shall not use such third party, or the services of such third party to sell respondents' photography products or services.

6. Inform the persons described in Paragraphs (1) and (2) above that respondents are obligated by this order to discontinue dealing with those persons who continue on their own the deceptive acts or practices prohibited by this order.

7. Institute a program of continuing surveillance to reveal whether the business operations of each said person described in Paragraphs (1) and (2) above conform to the applicable provisions of this order.

8. Discontinue dealing with the persons so engaged, revealed by the aforesaid program of surveillance, who continue on their own the deceptive acts or practices prohibited by the applicable provisions of this order.

9. Upon receiving information or knowledge from any source concerning two or more bona fide complaints prohibited by the applicable provisions of this order against any of their sales agents or representatives during any one-month period, will be responsible for either ending said practices or securing the termination of the employment of the offending sales agent or representatives.

10. Submit to the Commission a detailed report every six (6) months for a period of three years from the effective date of this order

demonstrating the effectiveness of the steps or actions taken with regard to the aforesaid surveillance program.

It is further ordered, That respondents herein shall notify the Commission at least thirty (30) days prior to any proposed change in the structure of the corporate respondents 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 respective corporation which may affect compliance obligations arising out of this order.

It is further ordered, That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business or employment in which they are engaged as well as a description of their duties and responsibilities.

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.
