

Complaint

IN THE MATTER OF
DAMON CORPORATIONCONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT AND SEC. 7 OF THE
CLAYTON ACT

Docket C-2916. Complaint, Feb. 23, 1978 — Decision, Feb. 23, 1978

This consent order, among other things, bars a Needham Heights, Mass. operator of a chain of medical laboratories from acquiring, for a period of ten years, any independent medical laboratory located in, or doing 25% or more of its business in given markets, without prior Commission approval. Further, the order requires the firm to cease furnishing any means of compensation to physicians or others for referring specimens for testing to Damon laboratories, rather than to those of its competitors.

Appearances

For the Commission: *Andrew G. Stone and Randolph B. Sim.*
For the respondent: *Shearman & Sterling, New York City.*

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent named above, as hereinafter more particularly designated and described, has violated and is now violating the provisions of Section 7 of the Clayton Act (15 U.S.C. 18) and Section 5 of the Federal Trade Commission Act (15 U.S.C. 45), and it appearing to the Commission that a proceeding in respect thereof would be in the public interest, hereby issues its complaint pursuant to the provisions of Section 11 of the Clayton Act (15 U.S.C. 21) and Section 5 of the Federal Trade Commission Act (15 U.S.C. 45), stating its charges as follows:

DEFINITIONS

1. For the purpose of this complaint, the following definitions shall apply:

a. *Medical Laboratory Tests:* Tests or examinations performed on specimens drawn or otherwise taken from the human body, or on other organic material, for the purpose of assisting in the diagnosis of disease or assessment of medical condition or state of body condition; not including autopsies, x-ray and other radiographic examinations, and electrocardiographic and other electrographic examinations.

b. *Medical Laboratory Test Services:* The services performed by

businesses performing or arranging for the performance of Medical Laboratory Tests in connection with the performance of such Tests, which services may include but are not limited to: provision of such equipment and supplies as are necessary to obtain specimens; pickup of specimens; performing or arranging for the performance of Medical Laboratory Tests; communication of results to interested parties; and giving assistance to physicians in their interpretation of the meaning of the results of said Medical Laboratory Tests.

c. *Independent Medical Laboratory*: Any establishment performing Medical Laboratory Tests and Services except for the following: any laboratory or laboratories maintained and operated by Federal, state, county or municipal government; any laboratory or laboratories maintained and operated solely for research or teaching purposes; any laboratory operated by a physician or medical group practice, provided such laboratory is operated solely in connection with the diagnosis and treatment of his own or the group's own patients; any laboratory maintained in a hospital and operated by a hospital; and any laboratory maintained and operated by any industrial organization, for the sole purpose of testing of specimens from its own employees.

d. *Metropolitan Philadelphia Area*: Philadelphia, Bucks, Montgomery, Chester and Delaware counties in the Commonwealth of Pennsylvania; and Gloucester, Camden and Burlington counties in the State of New Jersey.

e. *Metropolitan Chicago Area*: Cook, Lake, McHenry, Kane, DuPage and Will counties in the State of Illinois.

THE RESPONDENT

2. Respondent, Damon Corporation (hereinafter "Damon"), 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 located at 115 Fourth Ave., Needham Heights, Massachusetts.

3. Damon is a manufacturer of electronic products. It also produces and sells educational materials, medical equipment, and medical supplies.

4. In 1969, Damon entered into a program of acquiring Independent Medical Laboratories with the purpose of assembling a nationwide chain of laboratories. Since that time Damon has made more than 50 acquisitions of Independent Medical Laboratories located and serving the public in the following geographic areas, among others: Anderson, South Carolina; Birmingham, Alabama; Bradenton, Florida; Metropolitan Chicago Area; Columbus, Missis-

issippi; Detroit, Michigan; Ft. Lauderdale, Florida; Huntsville, Alabama; Los Angeles, California; New York, New York; Orlando, Florida; Parkersburg, West Virginia; Metropolitan Philadelphia Area; Phoenix, Arizona; Santa Barbara, California; Tampa, Florida; Topeka, Kansas; Ventura, California; Washington, D. C. By 1974, Damon's network of Independent Medical Laboratories had become one of the largest in the world.

5. Damon's total annual sales have risen from \$15,709,000 in fiscal 1968 to \$141,311,000 in fiscal 1974. Damon's sales of Medical Laboratory Tests and Services have grown from zero in fiscal 1968 to more than \$50 million in fiscal 1974, or 40 percent of total annual sales.

6. At all times relevant herein, Damon has been a corporation engaged in commerce within the meaning of the Clayton and Federal Trade Commission Acts.

COUNT I

7. The allegations of Paragraphs One through Six, inclusive, of this complaint are incorporated herein by reference.

LINE OF COMMERCE

8. For purposes of this Count, the relevant service market is the provision of Medical Laboratory Tests and Services by Independent Medical Laboratories. Such Laboratories fill a unique and critical role in the nation's health care delivery system by providing a wide variety of Medical Laboratory Tests and ancillary Services at competitive rates to physicians and other medical practitioners, to clinics, and to governmental, industrial, and other institutions which administer health care services. Independent Medical Laboratories also provide Medical Laboratory Tests and Services to hospitals and nursing homes which care for patients confined to such institutions. No other health care institution provides such a variety of Medical Laboratory Services for the benefit of the public at large.

9. The relevant geographic markets for purposes of this Count are the Metropolitan Philadelphia and Metropolitan Chicago Areas.

THE ACQUISITIONS

10. Damon has acquired the following Independent Medical Laboratories in the Metropolitan Philadelphia Area:

a. On April 10, 1969, Damon acquired substantially all of the assets and properties of Lawndale Laboratory Company (hereinafter "Lawndale"). Prior to and until April 10, 1969, Lawndale was a

corporation organized, existing and doing business under the laws of the Commonwealth of Pennsylvania with its principal place of business located in Philadelphia, Pennsylvania. At the time of its acquisition, Lawndale was the second largest Independent Medical Laboratory in the Metropolitan Philadelphia Area.

b. On April 17, 1969, Damon acquired all of the outstanding capital stock of Rhodes Laboratories, Inc., d/b/a Medical Arts Laboratories (hereinafter "Rhodes"). Prior to and until April 17, 1969, Rhodes was a corporation organized, existing and doing business under the laws of the Commonwealth of Pennsylvania with its principal place of business located in Willow Grove, Pennsylvania. At the time of its acquisition, Rhodes was the largest Independent Medical Laboratory in the Metropolitan Philadelphia Area.

c. On July 12, 1969, Damon acquired all of the outstanding capital stock of Rosoff Laboratories, Inc. (hereinafter "Rosoff"). Prior to and until July 12, 1969, Rosoff was a corporation organized, existing and doing business under the laws of the Commonwealth of Pennsylvania with its principal place of business located in Philadelphia, Pennsylvania.

d. On August 5, 1969, Damon acquired substantially all of the assets and properties of Elmcon, Inc., d/b/a Northeast Medical Center Laboratory (hereinafter "Elmcon"). Prior to and until August 5, 1969, Elmcon was a corporation organized, existing and doing business under the laws of the Commonwealth of Pennsylvania with its principal place of business located in Philadelphia, Pennsylvania.

e. On September 30, 1969, Damon acquired substantially all of the assets and properties of Claude P. Brown Associates, Inc. (hereinafter "Brown"). Prior to and until September 30, 1969, Brown was a corporation organized, existing and doing business under the laws of the State of Delaware with its principal place of business located in Philadelphia, Pennsylvania.

f. On July 1, 1970, Damon acquired substantially all of the assets and properties of E. Philip Halpern & William Ball, co-partners d/b/a Park Laboratories (hereinafter "Park"). Prior to and until July 1, 1970, Park was a partnership organized, existing and doing business under the laws of the Commonwealth of Pennsylvania with its principal place of business located in Philadelphia, Pennsylvania.

g. On May 19, 1972, Damon acquired substantially all of the assets and properties of Pathology Consultants, Inc. (hereinafter "Pathcon"), and its subsidiary, KNS Laboratories, Inc. (hereinafter

"KNS"). Prior to and until May 19, 1972, Pathcon was a corporation organized, existing and doing business under the laws of the Commonwealth of Pennsylvania, with its principal place of business located in Narberth, Pennsylvania. KNS was a corporation organized, existing and doing business under the laws of the State of New Jersey, with its principal place of business located in Woodbury, New Jersey.

h. On April 2, 1973, Damon acquired assets of Biomedical Resources Corporation (hereinafter "BMR"), including substantially all of BMR's assets in the Metropolitan Philadelphia Area. Prior to and until April 2, 1973, BMR was a corporation organized, existing and doing business under the laws of the State of New York, with its principal place of business located in New York, New York.

11. As a consequence of these acquisitions, by 1973, Damon had acquired approximately a 33 percent share of the Independent Medical Laboratory service market in the Metropolitan Philadelphia Area, and had become by far the largest Independent Medical Laboratory in that Area. The four largest Independent Medical Laboratories in the Area provided approximately 55 percent of such services in the Area in 1973.

12. Damon has acquired the following Independent Medical Laboratories in the Metropolitan Chicago Area:

a. On December 7, 1970, Damon acquired substantially all of the assets and properties of Mason-Barron Pathology Laboratories, S. C. (hereinafter "Mason-Barron"). Prior to and until December 7, 1970, Mason-Barron was a corporation organized, existing and doing business under the laws of the State of Illinois, with its principal place of business located in Chicago, Illinois. At the time of its acquisition, Mason-Barron was the largest Independent Medical Laboratory in the Metropolitan Chicago Area.

b. On December 10, 1970, Damon acquired all of the outstanding capital stock of Pasco Medical Laboratories, Inc. (hereinafter "Pasco"). Prior to and until December 10, 1970, Pasco was a corporation organized, existing and doing business under the laws of the State of Delaware, with its principal place of business located in Hinsdale, Illinois. At the time of its acquisition, Pasco was the second largest Independent Medical Laboratory in the Metropolitan Chicago Area.

c. On December 10, 1973, Damon acquired substantially all of the assets and properties of Aurora Clinical Laboratory, Inc. (hereinafter "Aurora"). Prior to and until December 10, 1973, Aurora was a corporation organized, existing and doing business under the laws of

the State of Illinois, with its principal place of business located in Aurora, Illinois.

d. On August 1, 1974, Damon acquired substantially all of the assets of Omega Medical Laboratories, Inc. (hereinafter "Omega"). Prior to and until August 1, 1974, Omega was a corporation organized, existing and doing business under the laws of the State of Illinois with its principal place of business located in Downers Grove, Illinois.

13. As a consequence of these acquisitions, by 1973, Damon had acquired approximately a 25 percent share of the Independent Medical Laboratory service market in the Metropolitan Chicago Area, and had become by far the largest Independent Medical Laboratory in that Area. The four largest Independent Medical Laboratories in the Area provided approximately 35 percent of such services in the Area in 1973.

COMMERCE

14. At all times relevant, Lawndale, Rhodes, Rosoff, Elmcon, Brown, Pathcon, BMR, Mason-Barron, Pasco, Aurora and Omega were corporations engaged in commerce, as that term is used in Section 7 of the Clayton Act, as amended, (15 U.S.C. 18), and in Section 5 of the Federal Trade Commission Act, as amended, (15 U.S.C. 45). Park was a partnership, also engaged in commerce as that term is used in Section 5 of the Federal Trade Commission Act, as amended, (15 U.S.C. 45). Each of these acquisitions affected commerce, as that term is used in Section 5 of the Federal Trade Commission Act, as amended, (15 U.S.C. 45).

VIOLATIONS CHARGED

15. The effect of Damon's acquisitions of the stock and assets of Lawndale, Rhodes, Rosoff, Elmcon, Brown, Pathcon, and BMR in the Metropolitan Philadelphia Area, and of the stock and assets of Mason-Barron, Pasco, Aurora, and Omega in the Metropolitan Chicago Area, separately and cumulatively, may be substantially to lessen competition or to tend to create a monopoly in the Independent Medical Laboratory service market in the Metropolitan Philadelphia Area and in the Metropolitan Chicago Area in violation of Section 7 of the Clayton Act, as amended, (15 U.S.C. 18); and, the acquisitions by Damon of the stock and assets of the aforesaid corporations and Park, a partnership, separately and cumulatively, together with the subsequent use of such assets were and are to the prejudice and injury of the public and constitute unfair methods of

competition and unfair acts in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act, as amended, (15 U.S.C. 45); in the following ways, among others:

a. Actual competition and potential competition among and between the aforesaid corporations and partnership has been eliminated in the relevant markets.

b. Actual competition and potential competition between Damon and the aforesaid corporations and partnership has been eliminated in the relevant markets.

c. The trend toward concentration in the relevant markets has been accelerated.

d. The level of concentration in the relevant markets has been increased.

e. Damon has established itself as a dominant factor in the relevant markets by means of said acquisitions.

COUNT II

16. The allegations of Paragraphs One through Six, inclusive, of this complaint, are incorporated herein by reference.

RESPONDENT'S PRACTICES

17. In the course and conduct of its operation of Independent Medical Laboratories, Damon, through its subsidiaries and agents, has engaged in the practice, in various sections of the country, of making payments and/or granting other things of value, and/or causing intermediaries to make such payments and grants, to physicians and others ordering or arranging for Medical Laboratory Tests to be performed on behalf of patients by or through Damon or its subsidiaries. Said payments and grants, which were made during a period extending at least from 1971 until mid-1975, were intended by Damon and its subsidiaries to induce said persons to refer specimens, or to arrange for specimens to be referred, to Damon rather than its competitors, and to compensate said persons for so doing. More specifically, Damon has engaged in the following practices, among other things:

a. Damon has engaged in the practice of making payments, sometimes termed "handling fees" or "phlebotomy fees" and calculated either on the basis of a specific amount per test, or per specimen, or per patient, or as a specific amount per month, to physicians, and to nurses and other agents of physicians, to induce said persons and/or said physicians to arrange for submission of

Medical Laboratory Tests to Damon rather than to its competitors and to compensate said persons for so doing.

b. Damon has also engaged in the practice of causing intermediaries to make payments of the type described in sub-paragraph (a) above, to physicians, to induce said physicians to arrange for submission of Medical Laboratory Tests to Damon rather than to its competitors, and to compensate said persons for so doing.

c. Damon has also engaged in the practice of making payments equivalent to a percentage of amounts billed by or due to Damon for Medical Laboratory Tests submitted by physicians and medical clinics, to said physicians and to owners and managers of said medical clinics, and to their agents, to induce said persons to arrange for the submission of Medical Laboratory Tests to Damon rather than to its competitors, and to compensate said persons for so doing. In certain instances these payments have been termed "specimen collection fees," "handling fees," "rental fees," "maintenance fees" or "consultant fees."

d. Damon has also engaged in the practice of writing off charges and/or foregoing collection of all or part of amounts due from physicians for Medical Laboratory Tests to induce said physicians to refer Medical Laboratory Tests chargeable to patients and other parties to Damon rather than to its competitors, and to compensate said physicians for so doing.

e. Damon has also engaged in the practice of granting volume discounts to physicians with the intent that the benefit derived from said discounts would inure to said physicians, to induce said physicians to refer Medical Laboratory Tests to Damon rather than to its competitors, and to compensate said physicians for so doing.

VIOLATIONS CHARGED

18. The aforesaid acts and practices of Damon and its subsidiaries and agents have had the tendency unduly to restrict and restrain competition and have injured, hindered, suppressed, lessened or eliminated actual or potential competition, are to the prejudice and injury of the public, and constitute unfair methods of competition in or affecting commerce and unfair or deceptive acts and practices in or affecting commerce, in violation of Section 5 of the Federal Trade Commission Act (15 U.S.C. 45), for the following reasons, among others:

a. Physicians have been induced to order Medical Laboratory Tests on the basis of payments or things of value offered or received rather than on the basis of patients' welfare.

Laboratory Tests on the basis of payments or things of value offered or received rather than on the basis of other factors, such as price, quality and/or service.

c. Laboratories making said payments have obtained unfair competitive advantage over their competitors.

d. The public has been deprived of accurate information concerning said acts and practices, and therefore has been rendered unable to evaluate the relative prices of Medical Laboratory Tests and other medical services on an informed basis.

e. As a consequence, certain Medical Laboratory Test prices have tended to be stabilized at higher levels, and overall costs to consumers have been increased.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violations of Section 7 of the Clayton Act and of Section 5 of the Federal Trade Commission Act; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent 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 placed it on the public record for a period of sixty (60) days, and having duly considered the comments filed thereafter by interested persons pursuant to Section 2.34 of the Commission's Rules, now in further conformity with the procedure provided by Section 2.34 of its Rules hereby issues its decision in disposition of the proceeding against the above-named respondent, makes the following jurisdictional findings, and enters the following findings and order:

1. Respondent Damon Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its executive offices located at 115 Fourth Ave., Needham Heights, Massachusetts.

2. The Federal Trade Commission has jurisdiction over the subject matter of this proceeding and over the respondent, and the proceeding is in the public interest.

ORDER

I

For purposes of this order, the following definitions shall apply:

1. *Respondent*: Damon Corporation, and those persons, partnerships, corporations, and other legal entities acting on its behalf, including but not limited to, its officers, directors, agents, representatives, employees, subsidiaries, affiliates, successors and assigns.

2. *Medical Laboratory Tests*: Tests or examinations performed on specimens drawn or otherwise taken from the human body, or on other organic material, for the purpose of assisting in the diagnosis of disease or assessment of medical condition or state of body condition; not including autopsies, x-ray and other radiographic examinations, and electrocardiographic and other electrographic examinations.

3. *Medical Laboratory Test Services*: The services performed by businesses performing or arranging for the performance of Medical Laboratory Tests in connection with the performance of such Tests, which services may include but are not limited to: provision of such equipment and supplies as are necessary to obtain specimens; pick-up of specimens; performing or arranging for the performance of Medical Laboratory Tests; communication of results of Medical Laboratory Tests to interested parties; and giving assistance to physicians in their interpretation of the meaning of the results of such Medical Laboratory Tests.

4. *Independent Laboratory*: any entity performing or arranging for the performance of Medical Laboratory Tests, other than a entity: (1) owned and operated by a hospital or hospitals; or (2) more than 90 percent of the Net Sales of Medical Laboratory Tests of which during its four most recent complete fiscal quarters were attributable to sales of Medical Laboratory Tests performed at said laboratory on specimens obtained from in-patients and out-patients of either: (i) a single hospital, or (ii) a group of hospitals that has jointly contracted to purchase Medical Laboratory Test Services from a single source or to have such Test Services performed by a single source.

II

A. *It is ordered*, That for a period of ten (10) years from the date of service of this order, respondent shall not acquire, directly or indirectly, without the prior approval of the Federal Trade Commission, the whole or any part of the stock, share capital, or any other indicia of ownership of, or any ownership interest in, any other Independent Laboratory: (1) which performs any Medical Laboratory Tests at any location within a Market; or (2) which during its four most recent fiscal quarters has derived more than twenty-five percent (25%) of its Net Sales of Medical Laboratory Tests from Tests performed upon specimens originating from within any one Market.

B. For purposes of this Part II, any arrangement between respondent and an Independent Laboratory pursuant to which such Independent Laboratory:

1. Transfers or otherwise makes available to respondent, for a consideration, any list of customers for Medical Laboratory Tests in a Market; or
2. Discontinues the solicitation of customers for, or the marketing of, Medical Laboratory Tests within a Market, pursuant to an understanding with respondent, and thereafter refers or sends customers for Medical Laboratory Tests in such Market to respondent;

shall constitute an acquisition by respondent of an ownership interest in such Independent Laboratory subject to the provisions of Paragraph A of this Part II.

C. For purposes of this Part II, the term "Market" shall mean each of the following geographic areas:

1. the Philadelphia, Pennsylvania area, being Bucks, Chester, Delaware, Montgomery and Philadelphia counties within the Commonwealth of Pennsylvania; and Burlington, Camden and Gloucester counties within the State of New Jersey;
2. the Chicago, Illinois area, being Cook, DuPage, Kane, Lake, McHenry and Will counties within the State of Illinois;
3. the Birmingham, Alabama area, being Jefferson, St. Clair, Shelby and Walker counties within the State of Alabama;
4. the Tampa, Florida area, being Hillsborough, Pasco and Pinellas counties within the State of Florida;
5. the Bradenton, Florida area, being Manatee County within the State of Florida;
6. the Phoenix, Arizona area, being Maricopa County within the State of Arizona;

7. the Orlando, Florida area, being Orange, Osceola and Seminole counties within the State of Florida;
8. the Huntsville, Alabama area, being Limestone, Madison and Marshall counties within the State of Alabama;
9. the Topeka, Kansas area, being Jefferson, Osage and Shawnee counties within the State of Kansas;
10. the Los Angeles, California area, being Los Angeles county within the State of California;
11. the Ventura, California area, being Ventura county within the State of California;
12. the Santa Barbara, California area, being Santa Barbara county within the State of California;

provided, that if respondent, in any of its fiscal years during the continuing existence of this Part II has less than five hundred thousand dollars (\$500,000) in Net Sales of Medical Laboratory Tests performed on specimens originating from within any geographic area listed above, said area or areas shall not constitute a Market for each of respondent's subsequent fiscal quarters during which respondent's Net Sales of Medical Laboratory Tests performed on specimens originating from within said area or areas, including such sales by any Independent Laboratory acquired by respondent, are below one hundred and twenty-five thousand dollars (\$125,000).

D. No acquisition made by respondent shall be deemed immune or exempt from the provisions of the antitrust laws by reason of anything contained in this order.

III

A. *It is further ordered*, That respondent shall not, directly or indirectly, make any payment of money, or grant or transfer any other thing of value, to or for the benefit of any person: (a) to induce such person either: (i) to contract with respondent for respondent to perform any Medical Laboratory Test Service; or (ii) to order or arrange for any Medical Laboratory Test Service to be performed by or through respondent; or (b) to compensate such person for so contracting, ordering, or arranging; whether or not said payment, grant or transfer is described or regarded as a rebate, credit, gift, commission, rental payment, participation in or share of profits, payment for any service in connection with the provision of any Medical Laboratory Test Service, or otherwise. This provision shall not, however, prohibit respondent:

(1) from providing Medical Laboratory Test Services to any person without charge, unless respondent knows or should know that —

01

Decision and Order

person will receive anything of value for such Services from any other person or a hospital; or

(2) from granting such bona fide extensions of credit to persons charged for Medical Laboratory Test Services as are usual in the normal course of providing such Medical Laboratory Test Services; or

(3) from granting to persons charged for Medical Laboratory Test Services any discount or reduced price for any Medical Laboratory Test Services (free Medical Laboratory Test Services, however, being controlled solely by subparagraph (1) above and not by this subparagraph); *provided*, that subsequent to the date six (6) months after the date of service of this order upon respondent, (i) the resultant net price for each Medical Laboratory Test Service on which any discount or reduced price is granted is provided in writing to the person charged for the Medical Laboratory Test Services before or at the time said person is billed for such Services, and (ii) the method of calculation and the conditions of eligibility for such discount or reduced price are clearly stated in writing on all notices of charges therefor.

B. For the purposes of this Part III, the term "person" shall mean any individual, corporation, partnership, trust, unincorporated association or organization, or government or agency or political subdivision thereof, other than a hospital or respondent.

C. No act or practice carried out by respondent shall be deemed immune or exempt from the laws of any state or of the United States by reason of anything contained in this order.

IV

It is further ordered, That for a period of ten (10) years from the date of service of this order, respondent shall, within ten (10) days after signing an agreement in principle to acquire any Independent Laboratory, or after the acquisition of any Independent Laboratory, whichever event is first, submit the following information in writing to the Federal Trade Commission:

1. Name of such Independent Laboratory.
2. Location of each facility owned, operated, or managed by such Independent Laboratory at which Medical Laboratory Tests were performed within the twelve (12) month period preceding the date of notification and, with respect to each such facility:
 - a. Net Sales of Medical Laboratory Tests for each of the last twelve (12) complete fiscal quarters prior to the date of notification;
 - b. The principal geographic area(s) it served within the twelve (12) month period prior to the date of notification; and

c. Medical Laboratory Tests it was licensed to perform by any state or federal agency within the twelve (12) month period prior to the date of notification.

3. Price paid or to be paid for such Independent Laboratory.

4. Location of the facility owned, operated, or managed by respondent at which Medical Laboratory Tests were performed within the twelve (12) month period preceding the date of notification which was nearest to each facility of such Independent Laboratory identified pursuant to (2) above.

5. Net Sales of Medical Laboratory Tests attributable to each facility of respondent identified pursuant to (4) above for each of the last twelve (12) complete fiscal quarters of respondent prior to the date of notification.

6. Date of closing or contemplated date of closing.

V

It is further ordered, That respondent shall forthwith distribute a copy of this order to each of its operating divisions, its present corporate officers, its medical laboratory directors, and its sales personnel; and shall secure from each such officer, director, and employee, a signed statement acknowledging receipt of said order.

VI

It is further ordered, That respondent shall, within sixty (60) days after the date of service of this order, and thereafter on the first anniversary date of the date of service of this order and on each anniversary date thereafter to and including the tenth anniversary date, submit in writing to the Commission a report setting forth in detail the manner and form in which respondent intends to comply, is complying, and has complied with Parts II and III of this order. All compliance reports shall include such other information and documentation as may hereafter be required to show compliance with this order.

VII

It is further ordered, That respondent shall notify the Commission at least thirty (30) days prior to any proposed change in its corporate structure such as dissolution, assignment or sale resulting in the emergence of a successor corporation, or any other change in the corporation which may affect obligations arising out of this order.

Complaint

IN THE MATTER OF
GROLIER, INCORPORATED, ET AL.

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

Docket 8879. Complaint, Mar. 9, 1972 — Final Order, Mar. 13, 1978.*

This order, among other things, requires a New York City publisher and seller of encyclopedia and other educational materials and services, and its subsidiaries to cease misrepresenting, failing to make relevant disclosures, or using any other unfair or deceptive method to recruit door-to-door sales personnel, sell merchandise and services, and collect delinquent accounts.

Appearances

For the Commission: *Edward D. Steinman, David C. Fix and Robert D. Friedman.*

For the respondents: *Frederick P. Furth, Thomas R. Fahrner and Robert C. Cagen, Furth, Fahrner & Wong, San Francisco, Calif.*

[2] 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 Grolier, Incorporated, American Peoples Press, Inc., Americana Corporation, Americana Interstate Corp., Career Institute, Inc., Federated Credit Corp., Grolier Enterprises, Inc., Grolier Interstate, Inc., Grolier New Era Corp., Grolier Reading Programs, Inc., Madison Enterprises, Inc., R.H. Hinkley Company, Spencer International Press, Inc., The Grolier Society, Inc., and The Richards Company, Inc., corporations, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Grolier, Incorporated 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 located at 575 Lexington Ave., New York, New York.

Respondent Grolier, Incorporated dominates, controls, and furnishes the means, instrumentalities, services and facilities for, and condones and approves the acts and practices of the corporations hereinafter referred to below.

* Complaint reported as amended by the administrative law judge's order of Jan. 10, 1973.