

IN THE MATTER OF
GROLIER, INCORPORATED, ET AL.

FINAL ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF SEC.
5 OF THE FEDERAL TRADE COMMISSION ACT

Docket 8879. Complaint, March 9, 1972 —Final Order, March 9, 1982*

The FTC is reissuing its Final Order in Docket No. 8879, In the Matter of Grolier, Inc. On March 13, 1978, the Commission issued its Order to Cease and Desist (91 F.T.C. 315); modified December 10, 1981 (98 F.T.C. 882). The reissued order, effective March 9, 1982, among other things, requires a New York City publisher and seller of encyclopedias and other educational materials and services, and its subsidiaries, to cease misrepresenting, failing to make relevant disclosures, or using any other unfair or deceptive methods to recruit door-to-door sales personnel, sell merchandise and services, and collect debts.

FINAL ORDER

This matter having been heard by the Commission upon remand by the United States Court of Appeals for the Ninth Circuit, and the Commission having denied a motion to disqualify Judge von Brand after allowing Grolier discovery on the matter in an Order issued August 13, 1981, and the Commission, having made certain modifications to the original cease and desist order issued on March 13, 1978, in an Order issued December 10, 1981, now reissues its Final Order, with said modifications, as follows:

It is ordered, That the following Order to Cease and Desist be, and it hereby is, entered:

ORDER

I

It is ordered, That respondents Grolier, Incorporated, Americana Corporation, Grolier Interstate, Inc., Grolier New Era Corp., Madison Enterprises, Inc., R. H. Hinkley Company, The Grolier Society, Inc., Spencer International Press, Inc. and The Richards Company, Inc., corporations and their successors, assigns, officers, agents, representatives and employees, directly or indirectly, through any corporation, subsidiary, division or other device, in connection with the recruitment, training, or orientation of any person to sell, rent, lease, or distribute any textbook, encyclopedia, reference or educational material, training course or teaching machine, or any other

* Complaint, Initial Decision, Opinion of the Commission and Final Order previously published at 91 F.T.C. 315.

publication, merchandise or service, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication, either orally or in writing, that:

(1) any respondent is offering positions in such fields as advertising, education, public relations, marketing, interviewing, or in any field other than door-to-door sales, if door-to-door sales is included, to any extent, in the position for which persons are being recruited; or misrepresenting, in any manner, the job for which any person is being solicited;

(2) persons will be trained as management trainees, or for other positions of responsibility concerned with administrative office functions, unless, in fact, a formal management training program is available to persons accepting employment on the basis of such representations; or misrepresenting, in any manner, the amount and type of training that will be given;

(3) any person who may be employed will contact prospects in their homes or places of business for the purposes of conducting surveys, advertising promotions, educational instruction or other nonselling functions; or misrepresenting, in any manner, the purposes for which any person is engaged.

B. Misrepresenting, in any manner, the amount of income to be earned by any person or that may be earned by any person, the method of payment, or any condition or limitation imposed upon the compensation of any person, or the degree of ease or difficulty in performing any said condition imposed.

C. Failing to disclose, clearly and conspicuously, in all advertising offering employment in any way involving door-to-door sales:

(1) that the respondent concerned is recruiting persons for the sole purpose of soliciting or selling;

(2) that such soliciting or selling will be on an "in home" basis;

(3) that the products or services being sold are encyclopedias or services to be used in connection therewith, or in the event that encyclopedias or such related services are not being sold, the products and services being sold; and

(4) the basis for compensating persons so engaged.

D. Failing to clearly and conspicuously advise, both orally and in writing, any prospective salesperson at the initial face-to-face

interview, and prior to executing any employment agreement with any such person, the following information:

- (1) all those disclosures set forth in Paragraph I C above;
- (2) a complete and detailed description of each condition and limitation imposed upon the receipt of any compensation;
- (3) where applicable, notification that such person will not be paid for time spent during orientation and training;
- (4) a complete and detailed description of any expense or expenses any such person may incur performing the required duties; and
- (5) the percentage of persons holding similar positions engaged by the office offering the position during the twelve (12) months immediately preceding the offer, who have actually received an equivalent, or greater, income than that promised under the terms of any such agreement.

E. Failing to furnish to each applicant at the initial face-to-face interview and prior to executing any employment agreement with any such person, a copy of Paragraphs I, II and V of this Order together with a cover letter as set forth in Appendix A attached hereto.

F. Making, distributing or using any training tapes, sales manuals, or any other document, method or device which contains any representation or instruction inconsistent with any provision of Paragraph I or Paragraph II of the Order.

II

It is ordered, That respondents Grolier, Incorporated, American Corporation, Grolier Interstate, Inc., Grolier New Era Corp., Madison Enterprises, Inc., R. H. Hinkley Company, The Grolier Society, Inc., Spencer International Press, Inc., and The Richards Company, Inc., corporations and their successors, assigns, officers, agents, representatives, and employees, directly or indirectly, through any corporation, subsidiary, division or other device, in connection with the publishing, advertising, offering for sale, sale, rental, lease or distribution of any textbook, encyclopedia, reference or educational material, training course or teaching machine, or any other publication, merchandise or service, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Disseminating or causing to be disseminated any advertisement or promotional material which solicits participation in any

contest, drawing or sweepstakes, or solicits any response to any offer of merchandise, service or information, unless any such solicitation clearly and conspicuously discloses that a person who replies as requested may be contacted directly by a salesperson for the purpose of selling respondents' products, using one of the following disclosures:

1. IMPORTANT: This card will let you know of my interest and enable your [location designation, if appropriate] sales representative to

(contact me at home)		(information)
(call or visit me)	with	(details)
(contact me in person)		(facts)

on how I may (purchase) [applicable product].
(buy)

2. IMPORTANT: Returning this card allows me to have your [location designation, if appropriate] sales representative

(contact me at home)		(information)
(call or visit me)	with	(details)
(contact me in person)		(facts)

on how I may (purchase) [applicable product].
(buy)

3. IMPORTANT: Returning this card will enable your [location designation, if appropriate] sales representative to

(contact me at home)		(information)
(call or visit me)	with	(details)
(contact me in person)		(facts)

on how I may (purchase) [applicable product].
(buy)

Upon prior approval in writing of the Assistant Director of the Division of Compliance of the Bureau of Consumer Protection, or his designee, respondents may use any other disclosure that clearly and conspicuously discloses that a person who replies as requested may be contacted directly by a salesperson for the purpose of selling respondents' products. A request for approval shall be in writing and shall be deemed granted if not disapproved within 30 days after receipt by the Assistant Director of the Division of Compliance of the Bureau of Consumer Protection.

B. Providing any return card, coupon or other device which is used to respond to any advertisement or promotional material covered by Paragraph II(A) above, unless one of the disclosures set forth in such Paragraph, or a disclosure approved by the Assistant Director of the Division of compliance or his designee as satisfying

the requirements of Paragraph II(A), clearly and conspicuously appears in immediate proximity to the space provided for a signature or other identification of the responding party. During the one (1) year period from the date this Order becomes final, respondents may submit a request to reopen these proceedings pursuant to Section 2.51 of the Commission's Rules of Practice. Such petition shall contain information demonstrating that any proposed modifications of Paragraphs II(A) and II(B) will clearly and conspicuously disclose to potential purchasers of respondents' products that a person who replies as requested may be contacted directly by a salesperson for the purpose of selling respondents' products. The foregoing sentence shall not be construed as a limitation of respondents' submission of additional information regarding the request to reopen, including information relating to the financial impact of Paragraphs II(A) and II(B) on respondents. Should a request be submitted, the Commission shall determine whether to reopen these proceedings within one hundred-twenty (120) days of receipt of such request. The procedure to reopen the proceedings as set forth herein is in addition to, and not in lieu of, any other procedure (or time period with respect to such procedure) permitted by law or the Commission's Rules of Practice.

C. Failing to disclose clearly and conspicuously, at the beginning of any telephone call to any prospective customer, the fact that the individual making the call is either soliciting the sale, rental or lease of publications, merchandise or services for respondents, or is arranging for a sales solicitation to be made, and that if the prospective customer so agrees, the respondent concerned will send a salesperson to visit said prospect for the purpose of soliciting the sale, rental or lease of said publications, merchandise or services.

D. Visiting the home or place of business of any person for the purpose of soliciting the sale, rental or lease of any publications, merchandise or service, unless at the time admission is sought into the home or place of business of such person, a card 3 inches by 5 inches in dimension, with all words in 10-point bold-face type, with the following information, and none other, in the indicated order, is presented to such person:

- (1) the name of the corporation;
- (2) the name of the salesperson;
- (3) the term "Encyclopedia Sales Representative" [or other applicable product];
- (4) the terminology: "The purpose of this representative's call is to solicit the sale of encyclopedias" [or other applicable product].

Provided, however, That for one (1) year from the date this order becomes final, respondents may, in lieu of the card required by this Paragraph of the Order, substitute a business card of at least 2 inches by 3-½ inches containing only the following information:

1. the name of the corporation
2. the name of the salesperson
3. the term "sales representative"
4. An address and telephone number at which the corporation or salesperson may be contacted
5. the product or the corporation logo or identifying mark.

During this one (1) year period, respondents shall comply in all other respects with the requirements of Paragraph II(D) above. Prior to the expiration of the aforesaid time period, respondents may submit a request to reopen these proceedings pursuant to Section 2.51 of the Commission's Rules of Practice. Such petition shall contain information demonstrating that the business card required in Paragraph II(D), as modified above, is effective in communicating to potential purchasers, prior to the entry into their homes or places of business by any of respondents' sales representatives, that the purpose of the sales representatives' call is to solicit the sale of respondents' products. The foregoing sentence shall not be construed as a limitation on respondents' submission of additional information regarding the request to reopen, including information on the financial impact of Paragraph II(D) on respondents. Should a request be submitted, the Commission shall determine whether to reopen these proceedings within one hundred-twenty (120) days of receipt of such request. Respondents may continue to use the business card, as described by this proviso, during the time that a request to reopen these proceedings pursuant to this Paragraph is pending, and, if such proceedings are reopened, until the Commission determination of the matter has become final. The procedure to reopen the proceedings as set forth herein is in addition to, and not in lieu of, any other procedure (or time period with respect to such procedure) permitted by law or the Commission's Rules of Practice.

E. Failing to give the card, required by Paragraph II(D), above, to each person and to provide each such person with an adequate opportunity to read the card before engaging any such person in any sales solicitation.

F. Using the words "Mothers Club" or words of similar import and meaning to represent, directly or by implication, the existence of a *bona fide* educational program, club, or business entity which provides educational services or benefits to consumers or using any

trade name misrepresenting in any manner the nature or purpose of their business.

G. Representing, directly or by implication, either orally or in writing that:

(1) Any person calling on any prospective purchaser is:

(a) engaged in or connected with "advertising", "marketing", "promotion", "education", or anything other than the sale of encyclopedias or other educational or reference materials;

(b) conducting, taking or participating in a survey, opinion poll, interview or any other information gathering activity; or

(c) calling on said prospect for the primary purpose of delivering or disseminating any vacation gift certificate, prize, gift, gift certificate, chance in any contest, or any other merchandise or item of chance;

(2) only a few minutes will be required to complete the visit inside the prospective purchaser's home or place of business; or misrepresenting, in any manner, the period of time required to complete the sales or other presentation;

(3) any person contacted has been specially selected to receive any offer; or misrepresenting, in any manner, the persons or class of persons to whom said offer is available;

(4) any encyclopedia or other reference material is a new publication, or a publication which has not been previously available to the public unless such is the fact, or misrepresenting, in any manner, the extent of editorial revisions, in any encyclopedia or other reference material;

(5) any offer is limited, must be accepted immediately or within a specified time period, or is a special offer, unless such is a fact; or misrepresenting, in any manner, the nature, scope or duration of any sales offer;

(6) any publication, merchandise or service is being offered free, without cost, as a bonus, reduced in price or otherwise to any prospective purchaser of any of respondents' publications, merchandise or services agreeing to perform any advertising promotional or selling function, including but not limited to, any of the following acts or similar acts:

(a) permitting their names to be listed as local owners of the product or services;

(b) providing the name of any person who may be interested in purchasing any publication, merchandise or service;

(c) writing a letter evaluating the merits of any publication or other item which may be used in advertising;

(d) displaying any publication or other item in a conspicuous location in his home;

(e) keeping any publication or other item current by purchasing an annual yearbook or by purchasing any research service;

(f) completing installment payments for any item in a period of time less than the period of time initially represented; or

(g) paying a membership fee in order to participate in the Consumer Buying Educational Service, or any other program, club, service or entity which provides an opportunity for participants to purchase merchandise at a savings from the the retail prices for such merchandise, or paying a fee to participate in any similar program, club, service or entity; or

(h) misrepresenting, in any manner, that any publication, merchandise or service is being offered free, without cost, as a bonus, or reduced in price to any person;

(7) any publication, merchandise or service is being offered free, without cost, or is given as a bonus or otherwise to any purchaser of any of respondents' publications, merchandise or services, pursuant to any agreement to purchase, rent or lease any other publication, merchandise, or service, or combination thereof, from such respondent, unless:

(a) the contract price for the purchase, rental or lease of any such other publication, merchandise, service, or combination thereof, has remained at the said price or above for at least six (6) months within the last twelve (12) months immediately preceding the time at which the representation is made;

(b) no publication, merchandise or service has been offered free, without cost or given as a bonus or otherwise with the sale, rental or lease of any such other publication, merchandise, service or combination thereof, to any person for a period of at least six (6) months within the last twelve (12) months immediately preceding the time at which the representation is made;

(c) no publication, merchandise, service, or combination thereof, of equivalent or greater value, has been eliminated by such respondent from any such other publication, merchandise, service, or combination thereof, with which the free, without cost or bonus publication, merchandise or service is being offered;

Provided however, any such prices as are restricted by Paragraph II

G (7)(a) of this Order may be altered at any time by the respondent concerned to reflect *bona fide* changes in market conditions.

H. Misrepresenting, in any manner, the terms, conditions, method, rate or time of payment actually made available to any person.

I. Representing, directly or by implication, either orally or in writing that:

(a) any person using any research service will receive answers to questions on any subject; or misrepresenting, in any manner, the scope of, or restrictions imposed upon the use of, any such research service;

(b) any answer provided by a research service is the product of detailed, exhaustive or original research generated by the specific question asked by any person utilizing said service unless such is the fact; or misrepresenting, in any manner, the extent of individual attention, research, preparation or quality of any answer furnished by any such research service;

(c) any answer provided by any research service is a suitable or acceptable substitute for any term paper, theme or other report; or misrepresenting, in any manner, the benefit or use of any answer provided by any research service;

(d) any research service is being offered at any price or that the research service has a retail value unless such is the fact;

(e) the cost to any respondent of any research service represents a retail value.

J. (1) Failing to disclose, clearly and conspicuously, in writing on all promotional materials describing any research service, and orally during the course of any sales or other presentation relating to said service, each condition or limitation placed upon the use of such research service.

(2) Failing to disclose applicable limitations on the time within which answers will be supplied by any research service in writing on all promotional materials and orally during the course of any sales presentations relating thereto.

K. (1) Representing, directly or by implication, through the use of any oral statement, written quotation, picture or any other means that any publication, merchandise or service has received an endorsement, recommendation, or sponsorship from any educational, religious, or other institution or other entity or from any person, unless the stated endorsement is genuine and authentic in all respects, and discloses the year or edition of the publication to which such endorsements pertain, if a publication is involved.

(2) Using, publishing, or referring to any testimonial or endorsement unless (1) such use, publication, or reference is expressly authorized in writing and unless (2) respondents have good reason to believe that at the time of such use, publication, or reference, the person or organization named subscribes to the facts and opinions therein contained.

(3) Representing, in any manner, that an endorsement or testimonial has been recently executed or is current unless this is the fact.

(4) Misrepresenting, in any manner, that any person is calling on a prospective customer with the endorsement, recommendation, or sponsorship of another person or organization.

L. Failing to disclose:

(1) clearly to the officials of any educational institution being visited, where a purpose of such visit is to obtain the institution's permission to disseminate through the institution promotional material which solicits the sale of any product to the parents of the children enrolled in the educational institution, and which is designed to secure leads for in-home sales presentations, prior to any such dissemination, that the purpose of disseminating such promotional materials is to secure leads for in-home sales presentations;

(2) conspicuously on the face of such promotional materials within the scope of L(1) that dissemination of such promotional materials through the educational institution does not constitute an endorsement or a recommendation by the institution or its officials that such materials being promoted should be purchased unless such is the fact.

M. Representing to any person, directly or by implication, either orally or in writing that:

(1) any price is the retail, regular, usual or words of similar import or effect, price for any publication in any binding, merchandise or service, unless the respondent concerned is making a substantial number of its unit sales for each such publication in each such binding, merchandise or service, individually, at or above the represented price;

(2) any price is the retail, regular, usual, or words of similar import or effect, price for any set of publications in any binding and in combination with any other publication, merchandise or service, unless the respondent concerned is making a substantial number of its unit sales for each such set of publications in each such binding individually or in combination at or above the represented price;

(3) savings may be realized by the purchase, rental or lease of any publication, merchandise or service, or any combination thereof, from any of respondents' former prices for its products unless:

(a) such savings claims are based upon retail, regular, or usual prices, or combination prices, arrived at in accordance with Paragraph II M(1) and (2) above;

(b) respondents clearly and conspicuously specify the publication, merchandise or service, or combination thereof, and the price from which the savings are to be realized; and

(c) the publication, merchandise or service is of comparable quality in all material respects with the publication, merchandise or service sold at the higher price;

(4) savings may be realized by the purchase, rental or lease of any publication, merchandise or service, or any combination thereof, from comparable products of competitors unless:

(a) the respondent concerned clearly and conspicuously specifies the publication, merchandise or service, or combination thereof, from which the savings are to be realized;

(b) the price utilized for comparison purposes is the price at which a substantial number of persons have purchased the item referred to in (a) immediately above;

(c) the item referred to in (a) above is of comparable quality in all material respects to the product being sold;

(d) respondents have in good faith conducted a market survey or obtained a similar representative sample of prices in the trade area where the comparison is made which establishes the validity of said compared price.

N. Misrepresenting in any manner, either orally or in writing:

(1) the amount of savings to be realized by any person who enters into an agreement with any respondent for any publication, merchandise or service; or

(2) that any publication, merchandise or service is being offered free or without charge, or is given to any such person.

O. Failing to comply with any and all provisions of the Commission's Trade Regulation Rule, *Cooling-Off Period For Door-To-Door Sales* (16 C.F.R. 429.1), which are in effect on the date this Order becomes effective, and with any modifications or changes in the aforesaid Rule which may be made. A copy of the said Rule shall be

made a part of this Order for purposes of complying with other provisions hereof.

P. Initiating contact with any purchaser through any means for any reason from the time said purchaser enters into any agreement containing a NOTICE OF CANCELLATION, as required by Paragraph II O of this Order, until said buyer's cancellation period has expired.

Q. Failing to maintain a copy of each NOTICE OF CANCELLATION received pursuant to Paragraph II O of this Order, and making said documents available for inspection and copying by the Commission's staff upon reasonable notice. Any respondent receiving such NOTICE shall maintain it for a period of three (3) years from date of receipt.

R. Failing to create adequate records, which shall be maintained for a period of three (3) years and made available to the Commission's staff for inspection and copying upon reasonable notice, from which the validity of any savings claims, retail price claims, comparative value claims, or other representations of the type described in Paragraphs II G(7), II M and II N of this Order can be determined, and making any pricing claims within the scope of this provision unless there are in existence for at least the six (6) months preceding such claims records from which the validity of such claims can be determined.

S. Failing to attach to any contract for the sale, rental or lease of any publication, merchandise, service or combination thereof a written statement that clearly and conspicuously discloses, and only discloses, the following information in the indicated order and manner:

(1) in 12-point bold-face type size the terminology:

PRICE LIST

THE FOLLOWING PRICES ARE THE ONLY AUTHORIZED PRICES AT WHICH THE LISTED ITEMS MAY BE OFFERED.

ANY PRICE NOT LISTED BELOW IS UNAUTHORIZED AND FALSE.

(2) a list of all publications, merchandise, services or combination thereof currently offered for sale, rental or lease, and in immediate conjunction thereto each price at which any respondent is authorized to offer said product or service pursuant to Paragraph II M of this Order.

(3) in 12-point bold-face type the terminology, when applicable:

FREE ITEMS

ONLY THE FOLLOWING PRODUCTS AND SERVICES MAY BE OFFERED FREE. YOU ARE PAYING FOR ANY ITEMS RECEIVED AND NOT LISTED BELOW.

(4) a list of all publications, merchandise or services currently offered as free, without cost, or as a bonus pursuant to Paragraph II G(7) of this Order.

T. Failing to orally instruct any person at the time said person signs any contract for sale, rental or lease, of any publication, merchandise, service or combination thereof, pursuant to an oral sales presentation, that a "Price List" is attached to said person's contract.

III

It is further ordered, That respondents Grolier, Incorporated, American Peoples Press, Inc., Americana Interstate Corp., Career Institute, Inc., Grolier Enterprises, Inc., and Grolier Reading Programs, Inc., corporations, and their successors or assigns, their officers, agents, representatives and employees, directly or indirectly, through any corporation, subsidiary or division, or other device, in connection with the advertising, offering for sale, sale or distribution of any textbook, encyclopedia, reference or educational material, training course or teaching machine, or any other publication, merchandise or service through the use of any program, plan, method or device, that provides or purports to provide for the sale or distribution of any of said items to any person on an approval basis, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication, either orally or in writing that:

(1) any person has the option to receive each publication, merchandise or service, separately and individually, and to accept or reject same, unless such person is allowed in all instances to receive and to purchase or reject each such publication, merchandise or service separately and individually;

(2) any person will not receive any further publication, merchandise or service after the respondent concerned has received a timely notification of the person's cancellation of any such program, plan or method of sale or distribution, unless such is the fact; or misrepresenting, in any manner, any consequence resulting from any

person's cancellation of his participation in any such program, plan, or method of sale or distribution; and

(3) any person incurs no risk or obligation by joining or participating in any such program, plan, or method of sale or distribution; or misrepresenting, in any manner, any condition, right, duty or obligation imposed on any person.

B. Disseminating, or causing the dissemination of, any advertisement which fails to disclose in a clear and conspicuous manner:

(1) a description of the conditions and terms of any such program, plan, or method of sale or distribution, and the duties, risks and obligations of any subscriber thereto; and

(2) a description of each publication, merchandise or service to be offered for sale, the billing charge to be made therefor, the anticipated total number of publications, merchandise or services included in any such program, plan or method of sale or distribution, the number of publications, merchandise or services that will be included in each shipment of such items, and the number of and the intervals between each such shipment.

C. Failing to disclose, clearly and conspicuously, on any return coupon, order form or any other document used for responding to any such program, plan, or method of sale or distribution, the following information:

(1) the anticipated total number of publications, merchandise or services included in any such program, plan, or method of sale or distribution;

(2) the number of publications, merchandise or services that will be included in each shipment of such items; and

(3) the number of and the intervals between each such shipment.

D. Failing to disclose, clearly and conspicuously, in immediate conjunction with any publication, merchandise, service or notice thereof sent to any subscriber the anticipated date on which the respondent from whom the subscriber obtained any of such items will initiate processing of the next shipment of any such item.

E. Failing to provide to any person in conjunction with each notice of any shipment of any publication, merchandise or service, a clear and conspicuous means by which said person may exercise his option or right to cancel said shipment, if such is his right.

IV

It is further ordered, That respondents Grolier, Incorporated, American Peoples Press, Inc., Americana Corporation, Americana Interstate Corp., Federated Credit Corp., Career Institute, Inc., Grolier Interstate, Inc., Grolier New Era Corp., Madison Enterprises, Inc., R.H. Hinkley Company, Spencer International Press, Inc., The Grolier Society, Inc., and The Richards Company, corporations, and their successors, assigns, officers, agents, representatives and employees, directly or indirectly, through any corporation, subsidiary, division or other device, in connection with the collection or attempted collection of any debt allegedly due and owing pursuant to any contract or other agreement relating to the purchase or other receipt of any textbook, encyclopedia, reference or educational material, training course or teaching machine, or any other publication, merchandise or service, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication, either orally or in writing that:

(1) any company, corporation, or entity engaged in collection of monies allegedly due or owing to such concerns or any other company, corporation or entity has separate *bona fide* departments or divisions for legal matters, unless such are the facts; or misrepresenting, in any manner, the existence, or functions of any division or department of any company, corporation or entity;

(2) the Code of Federal Regulations, or any other federal regulation or statute, provides that any employee of the Federal Government who has any outstanding debt due or owing may be subject to dismissal from the federal service for failure to pay said debt unless the respondent concerned can demonstrate that sufficient facts exist with regard to the employee to whom the representation was made which establish the propriety of such claim;

(3) any person who utilizes the United States mail to obtain any publication, merchandise or service and who fails to pay or becomes delinquent in paying for any such item will be subject to prosecution for mail fraud under federal law unless the respondent concerned can demonstrate that sufficient facts exist, with regard to person to whom the representation was made, which establish the propriety of such claim; or misrepresenting, in any manner, the rights, duties or obligations of any person arising from any federal, state, or local statute, ordinance, or regulation;

(4) any respondent utilizes the services of credit reporting companies or other entities for persons who disseminate credit information in a manner which will adversely affect the public or general credit rating of any person who has become delinquent in paying any debt unless the respondent concerned can demonstrate that sufficient facts exist, with regard to the person to whom the representation was made, which establish the propriety of such claim, or misrepresenting, in any manner, that any person's public or general credit rating will be adversely affected;

(5) any letter, notice or other communication which has been prepared, originated or composed by any respondent has been prepared, originated or composed by any other person, firm or corporation;

(6) suit will be instituted to recover any delinquent debt, or that any delinquent debt will be transferred to any attorney with instructions to institute suit, or that any other legal step to collect any outstanding debt will be taken, unless a definite date is set forth for such action and such are the facts; or misrepresenting, in any manner, respondents' relationship with, or instructions to, any attorney, or the course of action that will be taken by any attorney or misrepresenting in any manner that any account has been transferred to any person or entity for collection unless those are the facts.

B. using any correspondence forms or any written materials which appear to depict official legal process.

V

For the purpose of the following provisions of this order, the terms "respondents" shall apply to each of the respondents named in Paragraph I and II of the Order.

It is further ordered, That respondents:

A. Deliver by registered mail, a copy of this Decision and Order to each of their salesmen, agents, solicitors, or other persons engaged by respondents for the promotion, sale or distribution of any of the publications, merchandise or services included in this Order, and to any person engaged by respondents to perform such duties in the future at the time such person is so engaged;

B. Obtain from each person described in Paragraph V A, a signed statement setting forth their intention to conform their business practices to the requirements of this Order; retain said statement during the period of three (3) years thereafter; and make said

statement available to the Commission's staff for inspection and copying upon reasonable notice;

C. Advise each such present and future salesman, agent, solicitor, or other person engaged by respondents for the promotion, sale or distribution of any of the publications, merchandise or services included in this Order that respondents will terminate the engagement or services of any such person, unless such person agrees to and does furnish to respondents a statement required by Paragraph V B, above; and

D. If any such person will not agree to file a statement with respondents as required by Paragraph V B above, and be bound by the provisions of this Order, the respondents shall immediately terminate the services of such person.

E. Furnish the Commission on a quarterly basis with a list, including business addresses, of those independent or outside distributors who have purchased or otherwise obtained for resale any of the publications, merchandise or services included in this Order.

VI

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

VII

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

VIII

It is further ordered, That respondents shall, within sixty (60) days after the effective date 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.

Final Order

99 F.T.C.

**APPENDIX A
NOTICE**

Attached hereto are the *pertinent provisions* of a cease and desist order entered against Grolier, Incorporated and certain of its subsidiaries, including Grolier Interstate, Inc. by the Federal Trade Commission, an agency of the Federal Government. Violation of any provision of this Order can result in severe monetary penalties to Grolier, Incorporated and Grolier Interstate, Inc. If you are employed by Grolier, Incorporated or any of its subsidiaries, you will be *required* to observe the provisions of this Order. Violation of any provision of this Order by an employee constitutes a violation of a federal law.

You should carefully read this Order before agreeing to any employment arranged with Grolier, Incorporated or any of its subsidiary companies.

(President)

Grolier, Incorporated

IN THE MATTER OF
CHAMPION HOME BUILDERS CO.

Docket 9151. Interlocutory Order, March 9, 1982

ORDER DENYING COMPLAINT COUNSEL'S MOTION FOR REMAND, OR,
IN THE ALTERNATIVE, MOTION TO AMEND COMPLAINT

This matter is before the Commission on the certification by the Administrative Law Judge (the "ALJ") of complaint counsel's Motion to Amend Complaint, filed December 29, 1981. Complaint Counsel has filed a "Motion to Remand Complaint Counsel's Motion to Amend the Complaint or, in the Alternative, To Amend the Complaint" and respondent has filed a "Response to Complaint Counsel's Motion to Amend Complaint."

The original complaint in this matter charges that respondent violated section 5 by failing to disclose material facts about its Solar Furnace to prospective purchasers. Complaint counsel now move the Commission to amend the complaint to state that respondent failed to disclose safety hazards inherent in the Solar Furnace. Specifically, complaint counsel would add the following underscored language to Paragraph Eleven of the original complaint:

PAR. 11. A significant number of Solar Furnaces are subject to or potentially subject to one or more conditions which are costly to correct or may significantly affect the quality, durability, or performance of the Solar Furnaces. Such conditions include but are not limited to controller malfunctions, foam insulation expansion and air leakage, wood frame outgassing and safety hazards. Respondent knew or should have known and failed to disclose to purchasers of Solar Furnaces facts which relate to the existence, nature, and extent of these conditions. Respondent's failure to disclose these material facts which, if known to prospective purchasers, would have been likely to affect their purchasing decisions, was and is deceptive and unfair.

Under Rule 3.15(a), the ALJ is authorized to permit amendments of complaints when "determination of a controversy on the merits will be facilitated thereby," and under "conditions as are necessary to avoid prejudicing the public interest and the rights of the parties." However, the ALJ may enter such an order only if the amendment "is reasonably within the scope of the original complaint." *Capital Records Distributing Corp.*, 58 F.T.C. 1170 (1961). Thus, the ALJ has authority to order amendments which clarify the allegations of a complaint or which merely add examples of practices already challenged. *Century 21 Commodore Plaza Inc.*, 89 F.T.C. 237 (1977); *Cavanagh Communities*, 87 F.T.C. 143 (1976). Where a proposed amendment alters the "underlying theory" of the original complaint, however, the Commission must make the determination whether to