

IN THE MATTER OF
CENTURION INTERNATIONAL, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF SEC. 5 OF
THE FEDERAL TRADE COMMISSION ACT AND THE MAGNUSON-MOSS
WARRANTY—FEDERAL TRADE COMMISSION IMPROVEMENT ACT

Docket C-3131. Complaint, Feb. 22, 1984—Decision, Feb. 22, 1984

This consent order requires three Texas manufacturers-sellers of mobile homes and related services, among other things, to timely honor and fully satisfy valid warranty and service contract claims. The order prohibits respondents from disclaiming any implied warranties; excluding in any warranty or service contract incidental or consequential damages arising from any consumer injury without disclosing that some states do not allow for such exclusions; failing to disclose in their warranties that certain states may provide legal rights beyond those contained in the warranty; and failing to include in their warranties procedures a consumer must follow in order to obtain performance on warranty obligations. Additionally, respondents must provide consumer redress to those persons who were entitled to but did not receive performance under a warranty or service contract issued or sold by the companies, or under a warranty implied by state law.

Appearances

For the Commission: *George E. Schulman and Paul M. Updegrave.*

For the respondents: *A. Stephen Hut, Jr. and Leslie C. Seeman, Wilmer, Cutler & Pickering, Washington, D.C. and Frank D. Thomas, Jr., in-house counsel, Waco, Tex.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and of the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Centurion International, Inc., a corporation, Centurion Homes Corporation, Inc., a corporation, and Centurion Homes of California, Inc., a corporation, hereinafter sometimes referred to as respondents, have violated the provisions of said Acts, 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 Centurion International, Inc., is a corpo-

ration organized, existing and doing business under and by virtue of the laws of the State of Texas.

Respondent Centurion Homes Corporation, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas.

Respondent Centurion Homes of California, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas.

All of the above respondents have their principal offices and places of business at 901 West Loop 340, Waco, Texas.

In addition, respondents operated through two other corporations that are now defunct: Tri-Star Service Company, Inc., which was a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas, and Centurion Homes Corporation of Arizona, Inc., which was a corporation organized, existing and doing business under and by virtue of the laws of the State of Arizona.

The aforementioned respondents cooperate and act, and, until February 1, 1982, the aforementioned respondents and the two defunct corporations cooperated and acted, together in carrying out the acts and practices hereinafter set forth.

PAR. 2. Respondents are now, and for some time last past have been, and, until February 1, 1982, respondents and the two defunct corporations were, engaged in the manufacture, offering for sale, sale and distribution of mobile homes, service contracts, and related goods and services. Respondents generally sell their products to the public through independent mobile home dealers. Said mobile homes are "consumer products" and the ultimate purchasers of said mobile homes are "consumers" as those terms are defined by Section 101 (1) and (3) of the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act, 15 U.S.C. 2301 (1) and (3).

PAR. 3. Respondents provide, and have provided, written warranties with the mobile homes described in Paragraph Two, herein, as "written warranty" is defined in the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act, 15 U.S.C. 2301(6). Said written warranties promise, *inter alia*, that for one year from the date of delivery of the mobile home to the original purchaser, respondents will repair, without charge, all defects in material and workmanship arising under normal use of the mobile home.

PAR. 4. Respondents and the defunct corporations have sold, for an additional fee, service contracts, as "service contract" is defined in the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act, 15 U.S.C. 2301(8). Said service contracts promise, *inter alia*, that for five years after the date of delivery of the mobile home the promisor will repair, without charge, all manufacturing defects in

material and workmanship under normal use, except as may otherwise be set forth in the service contract.

PAR. 5. Respondents maintain, and have maintained, a substantial course of business, including the acts and practices hereinafter set forth, which are in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 6. In the course and conduct of their business, and at all times mentioned herein, respondents have been, and are now, in substantial competition in or affecting commerce with corporations, firms and individuals engaged in the offering for sale and sale of merchandise and services of the same general kind and nature as the merchandise and services sold by respondents.

Count I - Violations of Section 5

Alleging a violation of Section 5 of the Federal Trade Commission Act, the allegations of Paragraphs One to Six are incorporated by reference herein as if fully set forth verbatim.

PAR. 7. In the course and conduct of their business as aforesaid, and at all times material herein, respondents now represent, and have represented, directly and by implication, both to potential purchasers and to purchasers of their mobile homes, that all of the respondents and the two defunct corporations described herein are a single corporate entity. For example, they have caused advertising and promotional materials to refer to these respondents by common names such as "Centurion", "Centurion Homes", or "Centurion Homes Corporation" or by using a common logo, rather than by their correct legal names. In addition, they have caused warranties issued by the various respondents uniformly to identify the warrantor as "Centurion" or "Centurion Homes" rather than by the name of any of the particular individual corporations.

PAR. 8. In the course and conduct of their business as aforesaid, on numerous occasions, respondents and the two defunct corporations have failed to observe the corporate formalities between and among each other. For example, they have transferred assets from each other without paying fair market value for those assets and they have paid for liabilities incurred by each other.

PAR. 9. None of the respondents has ever been formally dissolved as a corporation, been adjudicated bankrupt or had its debts discharged in a bankruptcy or insolvency proceeding. The two defunct corporations surrendered their corporate charters after the occurrence of the acts and practices alleged herein.

PAR. 10. On numerous occasions, respondents and the two defunct corporations have failed to honor their obligations or have otherwise disclaimed valid claims arising under the warranties and service con-

tracts they have issued. Such occasions include, but are not limited to, the following:

a. Respondents terminated the manufacture of mobile homes at certain manufacturing facilities. For example, respondents terminated the manufacture of mobile homes at Centurion Homes of California, Inc. Thereafter, on numerous occasions, respondents failed to honor or otherwise disclaimed valid warranty claims concerning mobile homes manufactured at the terminated facilities on the grounds that the said manufacturing operations are no longer in business and without assets. On some occasions, respondents represented, directly and indirectly, to consumers with valid warranty claims, that respondents were no longer legally obligated to honor the warranties they had issued.

b. Respondents terminated all operations at Tri-Star Service Company, Inc. Tri-Star had issued service contracts which provided that for five years after the date of delivery of the mobile home the promisor would repair, without charge, all manufacturing defects in material and workmanship under normal use, except as may otherwise be set forth in the service contract. Thereafter, on numerous occasions, all prior to the time Tri-Star Service Company, Inc., became defunct, respondents failed to honor or otherwise disclaimed valid service contract claims based on service contracts sold by the Tri-Star Service Company, Inc., on the grounds that said company is no longer in business and without assets. On some occasions, respondents represented, directly and indirectly, to consumers with valid service contract claims, that respondents were no longer legally obligated to honor the service contracts they had sold.

PAR. 11. Respondents' failure to honor their warranties and service contracts was and is an unfair act or practice. Respondents' representations that they were not legally obligated to honor their warranty or service contract obligations because of the termination of certain operations was and is false, misleading, deceptive and an unfair act or practice.

PAR. 12. The use by respondents of the aforesaid false, misleading, deceptive and unfair representations, directly or by implication, has had and now has, the capacity and tendency to mislead members of the public into the erroneous and mistaken belief that the representations were and are true and complete, and that the acts and practices were fair, and into the loss or waiver of valuable warranty and service contract rights by reason of said erroneous and mistaken belief.

PAR. 13. The acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair

methods of competition and unfair and deceptive acts or practices in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act. The acts and practices of respondents, as herein alleged, are continuing and will continue in the absence of the relief herein requested.

Count II - Violations of Warranty Disclosure Rules

Alleging violation of Section 5 of the Federal Trade Commission Act by violation of the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act, and of the regulations promulgated thereunder, the allegations of Paragraphs One to Six are incorporated by reference herein as if fully set forth verbatim.

PAR. 14. Respondents' written warranties violate the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act, 15 U.S.C. 2301 *et seq.*, by disclaiming implied warranties by stating that there are no warranties except those on the face of the written warranty. Such a disclaimer of implied warranties is a violation of Section 108(a) of the Warranty Act, 15 U.S.C. 2308(a), which provides that implied warranties may not be disclaimed for at least the period of time during which the written warranty is in effect. Therefore, pursuant to Section 110(b) of the Warranty Act, 15 U.S.C. 2310(b), respondents' disclaimer of implied warranties is a violation of Section 5(a)(1) of the Federal Trade Commission Act, 15 U.S.C. 45(a)(1).

PAR. 15. Respondents' written warranties violate the Commission's Rule concerning Disclosure of Written Consumer Product Warranty Terms and Conditions ("Warranty Disclosure Rule"), promulgated under the Warranty Act, 16 C.F.R. 701. Examples of such violations include, but are not limited to, the following:

a. Respondents' written warranties exclude incidental and consequential damages without disclosing that some states do not allow such exclusions. The failure to provide such a disclosure is a violation of Section 701.3(a)(8) of the Warranty Disclosure Rule and, therefore, according to Section 110(b) of the Warranty Act, 15 U.S.C. 2310(b), is an unfair or deceptive act or practice and an unfair method of competition in violation of Section 5(a)(1) of the Federal Trade Commission Act, 15 U.S.C. 45(a)(1).

b. Respondents' written warranties do not disclose that certain states also may give legal rights in addition to those provided in the written warranty. The failure to provide such a disclosure is a violation of Section 701.3(a)(9) of the Warranty Disclosure Rule and, therefore, according to Section 110(b) of the Warranty Act, 15 U.S.C. 2310(b), is an unfair or deceptive act or practice and an unfair method

of competition in violation of Section 5(a)(1) of the Federal Trade Commission Act, 15 U.S.C. 45(a)(1).

c. Respondents' written warranties do not provide a clear and concise step-by-step procedure for the consumer to follow in order to obtain performance of any warranty obligation. For example, said warranties do not provide the name and mailing address of the warrantor and/or the name and mailing address of any employee or department of the warrantor responsible for the performance of warranty obligations, and/or a telephone number that consumers may use without charge to obtain information on warranty performance. Further, said warranties do not state what notice is required to obtain warranty service. The failure to provide a clear step-by-step procedure to obtain performance of warranty obligations is a violation of Section 701.3(a)(5) of the Warranty Disclosure Rule and, therefore, according to Section 110(b) of the Warranty Act, is an unfair or deceptive act or practice and an unfair method of competition in violation of Section 5(a)(1) of the Federal Trade Commission Act, 15 U.S.C. 45(a)(1).

PAR. 16. The acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted and now constitute, unfair methods of competition and unfair and deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act. The acts and practices of respondents will continue in the absence of the relief herein requested.

DECISION AND ORDER

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

The respondents, their attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents 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 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 thereafter considered the matter and hav-

ing determined that it had reason to believe that the respondents have violated said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such an agreement 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 its Rules, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Centurion International, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas, with its office and principal place of business located at 901 West Loop 340, in the City of Waco, State of Texas.

Respondent Centurion Homes Corporation, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas, with its office and principal place of business located at 901 West Loop 340, in the City of Waco, State of Texas.

Respondent Centurion Homes of California, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas, with its office and principal place of business located at 901 West Loop 340, in the City of Waco, State of Texas.

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

ORDER

The definitions of terms contained in Section 101 of the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act ("Warranty Act"), 15 U.S.C. 2301, and in Section 701.1 of the Commission's Rule concerning Disclosure of Written Consumer Product Warranty Terms and Conditions ("Warranty Disclosure Rule"), 16 C.F.R. 701, promulgated by the Commission under the Warranty Act, and the definition of "commerce" pursuant to Section 4 of the Federal Trade Commission Act, 15 U.S.C. 44, shall apply to this order.

I

It is ordered, That respondents Centurion International, Inc., a corporation, Centurion Homes Corporation, Inc., a corporation, and Centurion Homes of California, Inc., a corporation, their successors and assigns, and their officers, employees, agents and representatives,

directly or through any corporation, subsidiary, division or other device, in connection with the issuance of any written warranty or service contract for any mobile home or recreational vehicle or any component part thereof in or affecting commerce, do forthwith cease and desist from failing to honor and satisfy fully, within a reasonable period of time after receiving from the consumer a request for such satisfaction, any valid claim arising under such warranty or contract, *provided* that within that period of time the consumer has allowed a reasonable number of attempts at satisfying the claim.

II

It is further ordered, That respondents Centurion International, Inc., a corporation, Centurion Homes Corporation, Inc., a corporation, and Centurion Homes of California, Inc., a corporation, their successors and assigns, and their officers, employees, agents and representatives, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, advertising, offering for sale, sale and distribution of any mobile home or recreational vehicle or any component part thereof in or affecting commerce, do forthwith cease and desist from:

A. Disclaiming or modifying in any warranty or service contract any implied warranty, except as provided by Section 108 of the Warranty Act, 15 U.S.C. 2308;

B. Excluding in any warranty or service contract any incidental or consequential damages arising from any consumer injury without clearly and conspicuously disclosing, as provided by Section 701.3(a)(8) of the Warranty Disclosure Rule, that some states do not allow for such exclusion;

C. Failing in any warranty to disclose, as provided by Section 701.3(a)(9) of the Warranty Disclosure Rule, that certain states may give the consumer legal rights in addition to those provided by the warranty;

D. Failing in any warranty to state, as provided by Section 701.3(a)(5) of the Warranty Disclosure Rule, clearly, prominently, and concisely a step-by-step explanation of the procedure that the consumer should follow in order to obtain performance of the warranty obligation; and

E. Violating any other provision of the Warranty Act, 15 U.S.C. 2301 *et seq.*, or of the Warranty Disclosure Rule, 16 C.F.R. 701.

III

It is further ordered, That respondents Centurion International, Inc., a corporation, Centurion Homes Corporation, Inc., a corporation, and Centurion Homes of California, Inc., a corporation, their successors and assigns, and their officers, employees, agents or representatives shall provide consumer redress in accordance with the provisions of this Part to those consumers who were entitled to but did not receive performance under a warranty or service contract issued or sold by respondents or under a warranty implied by state law by:

A. Identification of Consumers

1. Prior to the date of mailing pursuant to paragraph III(B), taking all reasonable steps to compile lists of:

a. the name and current address of every person who purchased a new mobile home manufactured by CHC of California from January 1, 1979, until the date of service of this order;

b. the name and current address of every person who purchased a new mobile home manufactured by CHC of Arizona; and

c. the name and current address of every person who ever purchased a service contract from respondents or the defunct corporations and every person who is the current owner of a service contract issued by respondents or the defunct corporations if the service contract permitted transfer of ownership;

2. Such lists to be compiled:

a. from respondents' files, including records required by the Department of Housing and Urban Development;

b. from requests to the state mobile home regulatory agencies in the states of Arizona, California, Texas and New Mexico;

c. from solicitations to the mobile home dealers who sold Centurion mobile homes and related service contracts;

d. from the records of Federal Trade Commission; and

3. If by the thirtieth day prior to the date of mailing pursuant to paragraph III(B) such lists do not contain the names and current addresses of at least 80% of said persons, including at least 70% of the original owners and 70% of the purchasers of service contracts, employing an independent commercial locator service to compile the lists prior to the date of mailing pursuant to paragraph III(B) and in that regard to provide all reasonable assistance to that locator service.

B. Notification of Persons

Sending, by postage-paid first class mail, within sixty days of the date of service of this order, to all persons identified pursuant to Paragraph A, above:

1. in the case of purchasers of mobile homes, a letter substantially identical to Appendix A and a claim form substantially identical to Appendix D; and/or
2. in the case of purchasers or transferees of service contracts, a letter substantially identical to Appendix B and a claim form substantially identical to Appendix E;

C. Notification Upon Receipt of Claim Forms

For each person who returns a claim form within forty-five days from the date of such mailing, sending within thirty days of the receipt of that claim form a notice of whether they will honor the claim and perform the work or reimburse the costs incurred by consumers as a result of respondents' failure to perform under a warranty, service contract or implied warranty.

D. Performance of Work or Payment of Claim

Performing the requested warranty or service contract work or paying the claim for reimbursement or diminution of value (unless the claim is denied pursuant to Paragraph E, below):

1. if, with respect to a warranty claim, the claim relates to defects in material and workmanship under normal use and service that arose within one year from the date of delivery of the mobile home and the consumer gave to respondents or their successors and assigns such notification of the defect as required by the warranty; or
2. if, with respect to a service contract claim, the claim relates to defects covered by the service contract; or
3. if, with regard to an implied warranty claim, the consumer gave to respondents or their successors and assigns such notice as is reasonably required under applicable state law.

The phrase "notification of the defect as required by the warranty" includes written or telephonic notice of any alleged defect to the respondents, the selling mobile home dealer or a state mobile home agency. If notification was not given, it is not required if the consumer submits a sworn statement that the reason for not providing notice was the actual or impending closing of the manufacturing plant. If the consumer is relying upon an implied warranty notification of the defect is required only to the extent reasonably required under applicable state law.

If a person seeks reimbursement for costs or, if the defect cannot reasonably be repaired, for diminution of value, respondents or their successors and assigns may require reasonable proof of the claim by such means as cancelled checks, paid invoices, or professional appraisals. As used herein, reimbursement of costs includes payment for diminution of value if the defect cannot reasonably be repaired. The defect cannot reasonably be repaired if, for example, the original owner no longer owns the mobile home. In such case, respondents or their successors and assigns must pay such owner for diminution of value.

Payment for diminution of value shall include the reasonable cost of any professional appraisal or estimate.

All reimbursements for costs, diminution of value and/or all repairs shall be made and completed within 60 days of the date the consumer is notified of the decision to make the repairs or within 60 days of an arbitration award ordering repairs to be made, except that:

- (1) all such repairs to mobile homes located outside of the states of California, Arizona, New Mexico, or Texas; and
- (2) all such repairs to mobile homes located in inaccessible locations (defined as more than half a mile from the nearest improved or unimproved road);

shall be performed within 90 days of the date that the consumer is notified pursuant to Paragraph C of this part that they will make the requested repairs or within 90 days of the date of an arbitration award ordering repairs to be made.

All such repairs to mobile homes where respondents or their successors and assigns are unable to obtain parts and materials within 60 days of the date of notification because said parts and materials are no longer in use by respondents or their successors and assigns shall be performed within 90 days of the date that the consumer is notified pursuant to Paragraph C of this part that respondents or their successors and assigns will make the requested repairs or within 90 days of the date of an arbitration award ordering repairs to be made. In such case respondents or their successors and assigns must notify the consumer of their inability to obtain the parts and the expected date the repairs will be made.

Conditions providing for excuse of the timely performance by the respondents or their successors and assigns as otherwise provided in this Part are as follows:

1. Natural disasters;
2. Acts of God or governmental authorities;
3. Strikes;

4. Public unrest;
5. Adverse weather conditions that would make it extremely difficult to repair the mobile home;
6. Inability to contact the mobile home owner to arrange repairs for the mobile home in question despite diligent efforts by respondents to make such contact where such inability is occasioned by the absence of the consumer from the mobile home; or
7. Absence of the consumer from the mobile home at the specific time agreed upon by the respondents and said purchaser for the scheduled service upon the mobile home but consumers need not agree to a time less specific than a half day time period (*i.e.*, morning or afternoon) in which to make the scheduled service.

E. Denial of Claims

Respondents or their successors and assigns may deny any claims (in whole or in part) for performance or reimbursement submitted pursuant to this Part if they have a reasonable, good faith belief that they are not responsible for performance or reimbursement as claimed under the applicable warranty, service contract or warranty implied under state law; or if the claimant does not submit reasonable proof of notification or of loss as set forth in the attached letters. In such case respondents or their successors and assigns shall send written notice giving the reasons for any denial to the claimant within thirty days from receipt of the claim. Such notice shall be substantially identical to the attached Appendix C and shall be sent by postage pre-paid, first class mail.

Furthermore, if respondents or their successors and assigns deny in whole or in part any request for warranty or service contract performance or reimbursement of costs they must:

1. Afford the consumer the right to submit such denial to an impartial mediation and arbitration procedure, entailing no mandatory administrative cost or filing fee to the consumer, which mediation and arbitration procedures will be conducted by the Better Business Bureau in accordance with their mediation and arbitration procedures.
2. Comply within the time periods in this Part with and abide by any negotiated agreement or arbitration award issued by the Better Business Bureau. Arbitration awards issued pursuant to this order shall not be binding on the consumer unless the consumer accepts the award in full satisfaction of his or her claim for warranty or service contract performance or reimbursement of costs.

IV

It is further ordered, That respondents Centurion International, Inc., a corporation, Centurion Homes Corporation, Inc., a corporation, and Centurion Homes of California, Inc., a corporation, their successors and assigns, and their officers, employees, agents and representatives, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, advertising, offering for sale, sale and distribution of any mobile home or recreational vehicle or any component part thereof in or affecting commerce, shall maintain and upon reasonable request and during regular business hours make available to the Federal Trade Commission for inspection and copying a legible and completed copy of each different type or form of warranty and service contract and of each advertisement or promotional material therefor, of every claim submitted to respondents or their successors and assigns by consumers in connection therewith, and of all correspondence relating thereto, *provided, however,* that no document need be maintained for more than four years after the document was prepared or last used, whichever period is longer.

V

It is further ordered, That respondents shall distribute a copy of this order to all their operating divisions and all present or future personnel, agents, or representatives having responsibility or authority to establish company policies, including but not limited to policies concerning warranty service, and that respondents secure from each such person a signed statement acknowledging receipt of said order.

VI

It is further ordered, That respondents shall notify the Commission at least 30 days prior to any proposed change in 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 corporations that may affect compliance obligations arising out of the order.

VII

It is further ordered, That respondents shall, within nine months after service of this order, file with the Commission a report in writing

setting forth in detail the manner and form in which respondents have complied with this order.

APPENDIX A

Dear Centurion Mobile Home Owner:

You may still have certain legal rights to have defects in your mobile home repaired for free. You may also be entitled to be reimbursed for money you spent repairing your mobile home or for the decrease in value of your mobile home due to the company's failure to repair. You may be entitled to reimbursement even if you no longer own the home.

You may be eligible for such service or reimbursement if you are the original owner of a Centurion Mobile Home. You are eligible if during your first year of ownership you experienced problems that were covered by the warranty you received from Centurion and (1) you complained about the problem to the manufacturer or the dealer or the state mobile home agency or some other government agency or (2) you did not complain because you were informed that the manufacturer's plant was closed or about to be closed.

You can be reimbursed for those expenses you incurred by having to repair mobile home defects yourself, by having to hire someone else to repair the defects, by the amount of the costs to repair the home or by the diminished value of the mobile home because you are not able to repair the defects at all. Reimbursement for the amount of the costs to repair the mobile home or for the diminished value must be based on cancelled checks, receipts or a professional estimate; the cost of such estimate is also reimbursable. Please include with your claim a copy of the check, receipt or estimate on which you are relying.

If you think you may be eligible, please complete the enclosed form and mail it to Centurion at the address on the letterhead within *45 days from the date of this letter*.

Centurion will notify you within thirty days after receiving your letter whether we will honor your claim. If the company disputes any part of your claim, we will tell you why it is disputing the claim and will explain how you may appeal that dispute to an independent, free arbitrator.

For your information, we are attaching a description of what is and what is not covered by the warranty.

This letter is being written because of an agreement between Centurion and the Federal Trade Commission. If you have any comments or complaints about how well Centurion is responding to your complaint, let the Federal Trade Commission know at this address:

Federal Trade Commission
Division of Enforcement
Bureau of Consumer Protection
Washington, D.C. 20580

Very truly yours,
[Centurion Office Name]

CENTURION MOBILE HOME WARRANTY

The warranty covers: Centurion will repair or replace, free of charge, including any related installation costs, any defective part.

The warranty does not cover: The Warranty does not apply to ranges, refrigerators, radios, air conditioners, water heaters, washers, dryers, furnaces, bedding or articles of furniture or furnishings which are warranted by their respective manufacturer.

The warranty also does not apply to any defect, malfunction, failure of the mobile home or one of the appliances or furnishings therein caused by misuse, neglect, accident, improper loading during secondary moves made by the original purchaser, failure to comply with the homeowner's manual instructions, or unauthorized repairs or alterations unless such repairs or alterations were made after being unable to secure warranty service from Centurion or the mobile home dealer, or damage not resulting from defect or malfunction while the product is in the possession of purchaser, or unreasonable use including a failure to provide reasonable and necessary maintenance will void this warranty. Provided, however, that repairs or alterations made by the manufacturer of appliances or equipment under the terms of their respective warranties shall not be considered as unauthorized repairs or alterations under the terms of this warranty.

APPENDIX B

Dear Tri-Star Service Company Extended Service Contract Holder:

You may still have certain legal rights to have defects in your mobile home repaired for free under your Tri-Star Extended Service Contract. You may also be entitled to be reimbursed for money spent repairing your mobile home yourself, for having to hire someone else to repair the defects, for the costs to repair the home or for the decrease in value of your mobile home due to the company's failure to repair if the defects cannot be repaired at all. You may be entitled to reimbursement even if you no longer own the home. Reimbursement for the costs to repair the mobile home or for the diminished value must be based on a professional estimate; the cost of such estimate is also reimbursable.

You may be eligible for such service or reimbursement if you own a mobile home with a Tri-Star Extended Service Contract that is still valid or if while the service contract was valid you experienced problems covered by the extended service contract. Also, to be eligible you must have complained about the problem to either Tri-Star Service Company or the dealer or the state mobile home agency or some other government agency. You don't need to have complained if you were informed that Tri-Star was not in business or about to go out of business.

You can be reimbursed for those expenses you incurred by having to repair mobile home defects yourself, having to hire someone else to repair the defects, by the amount of the cost to repair the home or by the diminished value of the mobile home because you are not able to repair the defects at all. Reimbursement for the amount of the cost to repair the mobile home or for the diminished value must be based on cancelled checks, receipts or a professional estimate; the cost of such estimate is also reimbursable. Please include with your claim a copy of the check, receipt or estimate on which you are relying.

If you think you may be eligible, please complete the enclosed form and mail it to Centurion at the address on the letterhead *within 45 days from the date of this letter*.

Centurion will notify you within thirty days of the date of receipt of your letter whether it will honor your claim. If it disputes any part of your claim, it will tell you why it is disputing the claim and will explain how you may appeal that dispute to an independent, free arbitrator.

For your information, we are attaching a description of what is and what is not covered by your Tri-Star Service Contract.

This letter is being written because of an agreement between Centurion and the

Federal Trade Commission. Tri-Star is now defunct, but was a corporate subsidiary of Centurion. If you have any comments or complaints about how well Centurion is responding to your complaint, let the Federal Trade Commission know at this address:

Federal Trade Commission
Division of Enforcement
Bureau of Consumer Protection
Washington, D.C. 20580

Very truly yours,
[Centurion Office Name]

TRI-STAR SERVICE CONTRACT

Your Service Contract covers: Any manufacturing defect in material or workmanship.
Your Service Contract does not cover:

- a. Tires, bedding, draperies, furniture and carpeting.
- b. Washing machines, dryers, dishwashers and air conditioners.
- c. Any defect, malfunction or failure of a covered item or appliance caused by misuse, neglect, accident, improper loading, failure to comply with the mobile home owner manual's instructions, or with any specific instructions from the respective manufacturer of any covered item, or unauthorized repairs or alterations unless such repairs or alterations were made after being unable to secure warranty service or service contract service by Centurion, Tri-Star or your mobile home dealer, or unreasonable use including a failure to provide reasonable and necessary maintenance. Provided, however, that repairs or alterations made by the manufacturer of appliances or equipment under the terms of their respective warranty obligations made by the manufacturer of appliances or equipment under the terms of their respective warranty shall not be considered as unauthorized repairs or alterations under the terms of this Plan.
- d. Any consequential damages, loss of time, inconvenience, commercial loss, loss of use of the mobile home, or other incidental damages such as telephone calls or lodging expenses. However, those costs that you incurred in having to repair the mobile home yourself or for the impairment in the value of the home in the event that it cannot be adequately repaired are covered by this service contract.
- e. Normal deterioration due to wear or exposure.
- f. Any loss, damage or injury to property other than the mobile home itself.
- g. Any loss caused by casualty, including but not limited to fire, smoke, theft or larceny, malicious mischief, vandalism, falling objects, breakage of glass, missiles, wind storm, nuclear contamination, freezing, lightning, explosion, hail, water, flood or from any other cause whatsoever except as provided in this Plan.
- h. Damage caused by improper loading, blocking, leveling or tie down operations.
- i. Any loss, damage or defect resulting from defect(s) in the manufacturer's design unless the manufacturer was Centurion.
- j. In the event of a replacement of any appliance, credit at a depreciated value will be given by the companies to the Plan Holder towards a new purchase.

APPENDIX C

Dear Centurion Home Owner:

We are denying all or part of your request for service work on your mobile home or for reimbursement of money spent. The work or reimbursement we are denying and our reason for denial are as follows:

Decision and Order

103 F.T.C.

If you disagree with our decision, you may, at no cost to you, ask the Better Business Bureau to resolve the dispute. Simply call or write the Better Business Bureau at the address and phone number listed below and provide them the following information:

- a. Your name and address and phone number;
- b. What work you asked us to do on your mobile home or reimbursement requested (you can send a copy of your claim form);
- c. Why you think you are entitled to have this work done or to get reimbursed.

The Better Business Bureau will try to work things out informally between you and Centurion Homes. If the dispute cannot be resolved informally, you are entitled to a hearing before an independent arbitrator, at no cost to you, to be conducted by the Better Business Bureau at a place convenient to you. Centurion must accept the arbitrator's decision, but you do not have to accept the decision.

For consumers who own a mobile home located in New Mexico, call or write:

For consumers who own a mobile home located in Arizona, call or write:

For consumers who own a mobile home located in California, call or write:

For consumers who own a mobile home located somewhere else call or write:

[If appropriate: The remaining part of your request will be fulfilled. We will contact you soon to make the necessary arrangements.]

This letter is being written because of an agreement reached with the Federal Trade Commission. If you have any comments or complaints about how well we are responding to your complaint, let the Federal Trade Commission know at this address:

Federal Trade Commission
Division of Enforcement
Bureau of Consumer Protection
Washington, D.C. 20580

Thank you,
[Name]

APPENDIX D

WARRANTY CLAIM FORM

[Address of Respondent]

1. Name of Owner _____ Home Phone () _____
Work Phone () _____
2. Address of Owner _____
Street Lot No. City State Zip
3. Serial Number of Mobile Home # _____
4. Address of Mobile Home _____
Street Lot No. City State Zip

5. Describe in detail the problem(s) you experienced with your mobile home, and state when the problem(s) appeared. (Use reverse side if necessary). If you have an inspection report, send us a copy.

6. What did you do to notify the dealer, manufacturer or any government agency about the problem? Try to include approximate dates you called or wrote to complain, and copies of any letters you wrote. If you did not complain please state why. (Note: You may be able to get help even if you cannot remember exactly when you complained, or you do not have a copy of any letter you may have written.)

7. Please state how much (if any) you have already spent for repairs covered by the warranty or how much your mobile home has gone down in value due to the failure to repair the mobile home. If you have any sales receipts, invoices, or cancelled check stubs or a professional estimate of the cost to repair your mobile home or the decrease in value of the mobile home if it cannot be repaired, please send a copy.

ATTESTATION

Under penalty of perjury, I, _____ hereby affirm that
(Name of Owner)
all of the above information is true and correct to the best of my knowledge and belief.

Signature of Owner

Date

Please return this form to:

[address of respondent]

Be sure to keep a copy of this completed form for your records.

APPENDIX E

SERVICE CONTRACT CLAIM FORM

[Address of Respondent]

1. Name of Owner _____
Home Phone () _____
Work Phone () _____
2. Address of Owner _____
Street Lot No. City State Zip
3. Serial Number of Mobile Home # _____
4. Address of Mobile Home _____
Street Lot No. City State Zip
5. Date of Delivery of Mobile Home _____
6. Describe in detail the problem(s) you experienced with your mobile home, and state

Decision and Order

103 F.T.C.

when the problem(s) appeared. (Use reverse side if necessary). If you have an inspection report, send us a copy.

7. What did you do to notify the dealer, manufacturer or any government agency about the problem? Try to include approximate dates you called or wrote to complain, and copies of any letters you wrote. If you did not complain please state why. (Note: You may be able to get help even if you cannot remember exactly when you complained, or you do not have a copy of any letter you may have written.)

8. Please state how much (if any) you have already spent for repairs covered by the service contract or how much your mobile home has gone down in value due to the failure to repair the mobile home. If you have any sales receipts, invoices, or cancelled check stubs or a professional estimate of the cost to repair your mobile home or the decrease in value of the mobile home if it cannot be repaired, please send a copy.

ATTESTATION

Under penalty of perjury, I, _____ hereby affirm that all of the above information is true and correct to the best of my knowledge and belief.

Signature of Owner_____
Date

Please return this form to:

[address of respondent]

Be sure to keep a copy of this completed form for your records.

IN THE MATTER OF
BEATRICE FOODS CO., ET AL.

Docket 9112. Interlocutory Order, Feb. 27, 1984

ORDER DENYING EXTENSION OF *IN CAMERA* TREATMENT

In response to the Commission's October 14, 1983 order to show cause for a two-year extension of *in camera* treatment for certain documents, respondent Tropicana Products, Inc. has withdrawn its motion for such an extension for all but one document, CX 413B.

CX 413B contains statistical information on Tropicana shipments of chilled and canned citrus products during the four-week period ending March 26, 1978. It is alleged that this information is not otherwise available and that the public disclosure of it would cause "clearly defined, serious injury," justifying the extension of *in camera* treatment under the standard for confidentiality articulated in *H.P. Hood and Sons, Inc.*, 58 F.T.C. 1184 (1961). Tropicana asserts that by knowing its total shipments for a one-month period almost six years ago, competitors could extrapolate from generally available A.C. Nielsen data on chain store distribution to determine the extent and strength of Tropicana's current non-chain distribution to specific geographic markets. It is alleged that non-chain distribution is a "recognized strength of Tropicana's distribution system" and that knowledge of it derived from this information could be utilized by competitors in sales and marketing strategies to Tropicana's competitive detriment. Tropicana Response to Show Cause Order at 5.

It is difficult to evaluate Tropicana's claim that the information in CX 413B is not otherwise available to the competition. We do know that it was submitted to the Florida Canner's Association, some of whose directors were executives of Tropicana's competitors, CX 414 A-B, yet it is unclear whether such individuals ever saw the information in CX 413B or would have been free to share it with their companies if they had. Regardless of this ambiguity, however, it remains the case that this information is now nearly six years old and, therefore, presumably not competitively sensitive unless Tropicana can make a "convincing showing that such data would provide significant insight into its strengths and weaknesses." *General Foods, Corporation*, 95 F.T.C. 352, 353-354 (1980).

We are not convinced it would. Accepting Tropicana's premise that its non-chain distribution is generally competitively sensitive information, we fail to see how competitors could use such old, limited data on total shipments in conjunction with Nielsen data to derive accu-