

Complaint

IN THE MATTER OF

REGAL ACCESSORIES, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION AND THE FLAMMABLE FABRICS ACTS

Docket 6353. Complaint, May 16, 1955—Decision, Jan. 12, 1956

Consent order requiring importers in New York City to cease violating the Flammable Fabrics Act by importing into the United States from Japan and selling in commerce silk scarves so highly inflammable as to be dangerous when worn.

Before *Mr. James A. Purcell*, hearing examiner.

Mr. Brockman Horne for the Commission.

Marlin & Sandberg, of New York City, for respondents.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Regal Accessories, Inc., a corporation, Irving Alpert and Mack Nord, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts, and the rules and regulations promulgated thereunder, 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 Regal Accessories, Inc., is a New York corporation. Respondents Irving Alpert and Mack Nord are President-Treasurer and Vice President-Secretary, respectively, of respondent Regal Accessories, Inc. The individual respondents formulate, direct and control the policies of said corporation. The business address of all respondents is 15 West 37th Street, New York, New York.

PAR. 2. Respondents, subsequent to July 1, 1954, the effective date of the Flammable Fabrics Act, have imported into the United States articles of wearing apparel, as the term "articles of wearing apparel" is defined in the Flammable Fabrics Act, which, under the provisions of Section 4 of said Act, as amended, were so highly flammable as to be dangerous when worn by individuals. Respondents have sold, offered for sale, introduced, delivered for introduction, and transported and caused to be transported in commerce, as "commerce" is defined in the Flammable Fabrics Act, the said articles of wearing

apparel, imported as aforesaid. Respondents have also transported and caused to be transported the said articles of wearing apparel, imported as aforesaid, for the purpose of sale and delivery after sale in commerce.

Among the articles of wearing apparel mentioned hereinabove were silk scarves manufactured in Japan.

PAR. 3. Respondents, subsequent to July 1, 1954, have furnished their customers with a guaranty with respect to the articles of wearing apparel mentioned in Paragraph 2 hereof, to the effect that reasonable and representative tests made under the procedures provided in Section 4 of the Flammable Fabrics Act, as amended, and the rules and regulations promulgated thereunder, show or will show that the said articles of wearing apparel are not, in the form delivered or to be delivered by respondents, so highly flammable under the provisions of the Flammable Fabrics Acts as to be dangerous when worn by individuals. There was reason for respondents to believe that the articles of wearing apparel covered by such guaranty might be introduced, sold, or transported in commerce.

Said guaranty was and is false in that (1), with respect to some of the said articles of wearing apparel, respondents have not made such reasonable and representative tests, and (2), with respect to other of the said articles of wearing apparel, the tests which were made did not show that the articles of wearing apparel were not so highly flammable as to be dangerous when worn by individuals. In truth and in fact, the said articles of wearing apparel, under the provisions of Section 4 of the Flammable Fabrics Act, as amended, were so highly flammable as to be dangerous when worn by individuals.

PAR. 4. The acts and practices of respondents were and are in violation of the Flammable Fabrics Act and of the rules and regulations promulgated thereunder, and as such constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

The complaint in this proceeding, issued on May 16, 1955, charges the respondents, Regal Accessories, Inc., a corporation existing by virtue of the laws of the State of New York, and Irving Alpert and Mack Nord, individuals and as officers of the respondent corporation, with violation of the Federal Trade Commission Act and of the Flammable Fabrics Act and the Rules and Regulations promulgated thereunder, in connection with the importation, sale, offering

for sale and transporting in interstate commerce of articles of wearing apparel which articles were so highly flammable as to be dangerous when worn by individuals.

Respondents were further charged with having furnished to their customers false guaranties to the effect that reasonable and representative tests of such wearing apparel disclosed same to be not so highly flammable as to be dangerous when worn by individuals, all in contravention of the Flammable Fabrics Act and the Rules and Regulations thereunder affecting guaranties, as well also in violation of the Federal Trade Commission Act.

After the issuance of said complaint and the filing of their answer thereto, the respondents entered into an agreement for consent order with counsel in support of complaint, disposing of all the issues in this proceeding, which agreement was duly approved by the Director of the Bureau of Litigation. It was expressly provided in said agreement that the signing thereof is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

By the terms of said agreement, the respondents admitted all the jurisdictional allegations of the complaint and agreed that the record herein may be taken as if the Commission had made findings of jurisdictional facts in accordance with such allegations. By said agreement, the answer heretofore filed by respondents was withdrawn and the parties expressly waived a hearing before the hearing examiner or the Commission, the making of findings of fact or conclusions of law by the hearing examiner or the Commission, the filing of exceptions and oral argument before the Commission, and all further and other procedure before the hearing examiner and the Commission to which the respondents may be entitled under the Federal Trade Commission Act or the Rules of Practice of the Commission.

By said agreement, respondents further agreed that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as if made after a full hearing, presentation of evidence and findings and conclusions thereon, and specifically waived any and all right, power or privilege to challenge or contest the validity of such order.

It was further provided that said agreement, together with the complaint, shall constitute the entire record herein; that the complaint herein may be used in construing the terms of the order issued pursuant to said agreement; and that the said order may be altered, modified or set aside in the manner provided by the statute for the orders of the Commission.

Order

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Respondent Regal Accessories, Inc., is a corporation existing under and by virtue of the laws of the State of New York. Respondents Irving Alpert and Mack Nord are individuals and respectively President-Treasurer and Vice-President-Secretary of the corporate respondent and as such formulate, direct and control the policies of the corporate respondent. The office and principal place of business of all respondents is located at No. 15 West 37th Street, New York, New York.

The hearing examiner has considered such agreement and the order therein contained, and, it appearing that said agreement and order provides for an appropriate disposition of this proceeding, the same is hereby accepted and is ordered filed upon becoming part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the Rules of Practice, and in consonance with the terms of said agreement, the hearing examiner finds that the Federal Trade Commission had jurisdiction of the subject matter of this proceeding and of the respondents named herein, and that this proceeding is in the interest of the public, and issues the following order:

ORDER

It is ordered, That the respondent Regal Accessories, Inc., a corporation, and its officers, and respondents Irving Alpert and Mack Nord, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from:

1. (a) Importing into the United States; or
- (b) Selling, offering for sale, introducing, delivering for introduction, transporting or causing to be transported, in commerce, as "commerce" is defined in the Flammable Fabrics Act; or
- (c) Transporting or causing to be transported, for the purpose of sale or delivery after sale in commerce; any article of wearing apparel, which, under the provisions of Section 4 of the said Flammable Fabrics Act, as amended, is so highly flammable as to be dangerous when worn by individuals.

2. Furnishing to any person a guaranty with respect to any article of wearing apparel which respondents, or any of them, have reason to believe may be introduced, sold or transported in commerce, which guaranty represents, contrary to fact, that reasonable and representative tests made under the procedures provided in Section 4 of the Flammable Fabrics Act, as amended, and the rules and regulations promulgated thereunder, show and will show that the article of wearing apparel, or the fabrics used or contained therein, covered by the guaranty, is not, in the form delivered or to be delivered

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Decision

by the guarantor, so highly flammable under the provisions of the Flammable Fabrics Act as to be dangerous when worn by individuals, provided, however, that this prohibition shall not be applicable to a guaranty furnished on the basis of, and in reliance upon, a guaranty to the same effect received by respondents in good faith signed by and containing the name and address of the person by whom the wearing apparel was manufactured or from whom it was received.

DECISION OF THE COMMISSION AND ORDER TO FILE
REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 12th day of January, 1956, become the decision of the Commission; and, accordingly:

It is ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Complaint

52 F. T. C.

IN THE MATTER OF

VIRCHAND PANACHAND & COMPANY, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION AND THE FLAMMABLE FABRICS ACTS*Docket 6396. Complaint, Aug. 23, 1955—Decision, Jan. 12, 1956*

Consent order requiring importers in New York City to cease violating the Flammable Fabrics Act by importing into the United States from Japan and selling in commerce silk scarves so highly inflammable as to be dangerous when worn.

Before *Mr. James A. Purcell*, hearing examiner.

Mr. Brockman Horne for the Commission.

Mr. Jesse Cohen, of New York City, for respondents.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Virchand Panachand & Company, Inc., a corporation, Peter Commercial Corporation, a corporation, U. M. Shah, V. V. Shah, N. R. Shah, C. Ferlazzo, N. B. Shah and Arnold Berke, individually and as officers of said corporations, hereinafter referred to as respondents, have violated the provisions of said Acts, and the rules and regulations promulgated thereunder, and it appearing 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. Respondents Virchand Panachand & Company, Inc., and Peter Commercial Corporation, are corporations organized, existing and doing business under and by virtue of the laws of the State of New York. Respondents U. M. Shah, V. V. Shah, N. R. Shah, C. Ferlazzo, N. B. Shah and Arnold Berke are President, Vice President, Vice President, Secretary, Treasurer and General Manager, respectively, of above named corporate respondents. The individual respondents formulate, direct and control the policies, acts and practices of said named corporate respondents. The business address of all respondents is 15 Park Row, New York 38, New York.

PAR. 2. Respondents, subsequent to July 1, 1954, the effective date of the Flammable Fabrics Act, have imported into the United States articles of wearing apparel, as the term "articles of wearing apparel"