

IN THE MATTER OF
AMITY MILLS, INCORPORATED

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

Docket 6510. Complaint, Feb. 17, 1956—Decision, July 21, 1956

Consent order requiring a distributor in New York City of cotton and other fabrics, to cease using the word "Mills" in its corporate name and to cease representing falsely in advertising that certain fabrics it imported from Italy were manufactured exclusively for it.

Mr. Charles S. Cox for the Commission.

Scribner & Miller, of New York City, for respondent.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges that respondent has violated the provisions of the Federal Trade Commission Act by the deceptive use of the word "Mills" in its corporate name, and by misrepresenting in its advertising that certain fabrics imported and offered for sale by it were manufactured for it and that it was the exclusive distributor thereof. Respondent filed an answer to the complaint, denying generally the charges contained therein.

Thereafter, on April 25, 1956, respondent and its counsel and counsel supporting the complaint entered into an Agreement Containing Consent Order To Cease And Desist, which was approved by the Director and Assistant Director, Bureau of Litigation of the Commission, and subsequently transmitted to the Hearing Examiner for consideration.

The agreement identifies respondent Amity Mills, Incorporated as a corporation existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 12 West 32nd Street, New York, New York.

The agreement provides, among other things, that respondent admits all the jurisdictional facts alleged in the complaint and agrees that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations; that respondent's answer to the complaint herein shall be considered as having been withdrawn, and the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement; that the agreement shall not become a part of the official record unless and until it becomes a part

of the decision of the Commission; that the complaint may be used in construing the terms of the order agreed upon, which may be altered, modified or set aside in the manner provided for other orders; that the agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint; and that the order set forth in the agreement and hereinafter included in this decision shall have the same force and effect as if entered after a full hearing.

Respondent waives any further procedural steps before the Hearing Examiner and the Commission, the making of findings of fact or conclusions of law, and all of the rights it may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement.

The order agreed upon fully disposes of all the issues raised in the complaint, and adequately prohibits the acts and practices charged therein as being in violation of the Federal Trade Commission Act. Accordingly, the Hearing Examiner finds this proceeding to be in the public interest and accepts the Agreement Containing Consent Order To Cease And Desist as part of the record upon which this decision is based. Therefore,

It is ordered, That respondent, Amity Mills, Incorporated, a corporation, and its officers, representatives, agents, and employees, directly or through any corporate or other device in connection with the offering for sale, sale, and distribution of cotton and other fabrics in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from directly or indirectly:

1. Using the word "Mills" or any other word of similar import or meaning in or as a part of respondent's trade or corporate name, or representing in any other manner that respondent is the manufacturer of the fabrics sold by it unless and until respondent actually owns and operates, or directly and absolutely controls the manufacturing plant wherein said fabrics are woven or made;

2. Using the words "Manufactured for" or "Distributor" separately or in combination one with the other, or any other word or words so as to represent in any manner that it is the exclusive or sole distributor of any fabric sold by it, unless and until such is a fact.

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 21st day of July, 1956, become the decision of the Commission; and, accordingly:

Decision

53 F.T.C.

It is ordered, That respondent Amity Mills, Inc., a corporation, shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist.

Decision

IN THE MATTER OF
DURLACHER AND COMPANY, INC., ET AL.

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

Docket 6355. Complaint, May 16, 1955—Decision, July 24, 1956

Consent order requiring importers in New York City, to cease violating the Flammable Fabrics Act by importing into the United States and selling or transporting in commerce silk scarves manufactured in Japan which were so highly inflammable as to be dangerous when worn; and furnishing customers with guaranties falsely representing that tests made under the procedures provided by the Act showed that the scarves were not dangerously inflammable.

Mr. Brockman Horne for the Commission.

Mr. Frederick E. M. Ballon, of New York City, for respondents.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

The complaint in this proceeding, issued May 16, 1955, charges the respondents Durlacher and Company, Inc., a corporation existing under and by virtue of the laws of the State of New York, and Lester Toplitt and Israel Otnow, 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.

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 the 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 though the Commission had made findings of jurisdictional facts in accordance with such allegations. By said agreement, the answer heretofore filed by respondent was withdrawn and the parties expressly waived a hearing before the hear-