

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 28th day of July 1960, 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.

IN THE MATTER OF
THORNDIKE MILLS, INC., ET AL.

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

Docket 7726. Complaint, Jan. 6, 1960—Decision, Aug. 5, 1960

Consent order requiring a manufacturer of rugs and floor coverings in Thorndike, Mass., to cease misrepresenting the fiber content and quality of its products by such practices as labeling rayon rugs as "100% Viscose Face Wool Blend Filler", and by overstating the wool content in mixed fiber rugs on price lists, invoices, and labels.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Thorndike Mills, Inc., a corporation, and Gabriel M. Garabedian, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Thorndike Mills, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Massachusetts, with its principal office and place of business located in the City of Thorndike, State of Massachusetts. Respondent Gabriel M. Garabedian is an officer of the corporate respondent. He formulates, directs and controls the acts and practices

of the corporate respondent, including the acts and practices as hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in manufacturing, advertising, offering for sale, sale and distribution of rugs and floor coverings to distributors and jobbers and to retailers for resale to the public.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said products, when sold, to be shipped from their place of business in the State of Massachusetts to purchasers thereof located in various other States of the United States and in the District of Columbia, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the conduct of their business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of rugs and floor coverings of the same general kind and nature as that sold by respondents.

PAR. 5. In the course and conduct of their business and for the purpose of inducing the purchase of their rugs and floor coverings, respondents have made certain statements with respect to the fiber content of said rugs and floor coverings by means of labels attached thereto and on price lists and other sales literature and on invoices. Typical and among such representations, but not limited thereto, are the following:

1. Pattern 603-A:
On labels: "Contents: 100% Viscose Face Wool Blend Filler".
2. Pattern 700:
On price lists: "Made of Wool Blend Approx. 60% Wool—40% Viscose".
On invoices: "Thornglo Wool Braided Rug".
On labels: "Contents: Approx. 60% Wool—40% Viscose—Wool Blend Filler".
3. Pattern 1700:
On price lists: "Made of New Wool Fabric Reinforced with Wool Blend Felt".
On labels: "Made of New Wool Fabric—Reinforced With Wool Blend Felt".
4. Pattern 500:
On price lists: "Made of 60% Reprocessed Wool and 40% Viscose".
On labels: "Contents: Approx. 60% Reprocessed Wool—30% Viscose—10% Nylon—Wool Blend Filler".

PAR. 6. Through the use of the aforesaid statements, and others of the same import not herein set forth, respondents represent, directly or indirectly:

1. Through the use of the term Viscose that the covering or face of Pattern 603-A is composed of a fiber other than rayon.

2. That the filler of each of the aforesaid rugs is composed entirely of wool.

3. That the wearing surface of Pattern 700 is composed of 60% Wool and 40% of some fiber other than rayon.

4. That the wearing surface of Pattern 1700 is composed entirely of wool.

5. That the wearing surface of Pattern 500 is composed of 60% reprocessed wool, 30% viscose, 10% nylon.

PAR. 7. Said statements and representations were and are false, misleading and deceptive. In truth and in fact:

1. The covering or face of Pattern 603-A is composed entirely of rayon.

2. The fillers of each of the foregoing rugs is not composed entirely of wool but is composed of substantial quantities of acetate, rayon, cotton and other miscellaneous fibers. Furthermore, said fillers contain substantial amounts of reprocessed and reused wool which fact is not revealed on said label.

3. The wearing surface of Pattern 700 contains substantially less than 60% wool and substantially more than 40% rayon. Furthermore, the label implies that the entire rug is composed of 60% wool and 40% rayon. The filler is composed of substantial quantities of reused wool, reprocessed wool, acetate, rayon, cotton and miscellaneous other fibers. When the contents of the filler are combined with the contents of the aforesaid covering the label becomes a gross misrepresentation of the fiber content of the rug.

4. The wearing surface of Pattern 1700 is composed of substantially less than 100% wool.

5. The wearing surface of Pattern 500 is composed of substantially less than 60% reprocessed wool and substantially more than 30% viscose.

PAR. 8. Respondents further engage in the practice of setting out the sizes of their various rugs and floor coverings on labels attached thereto. Certain of the aforesaid labels contain the representation "Approximately 9' x 12'". A large number of the rugs so labeled are substantially less than the stated size. Such rugs are substandard both in length and in width by up to eight inches. Respondents thereby place in the hands of the retailer the means and instrumentality through and by which the purchaser may be misled as to the actual size of the said rugs and floor coverings.

PAR. 9. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and

now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondents' product by reason of said erroneous and mistaken belief. As a consequence thereof, substantial trade in commerce has been, and is being unfairly diverted to respondents from their competitors and substantial injury has thereby been, and is being, done to competition in commerce.

PAR. 10. The aforesaid 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 and deceptive acts and practices and unfair methods of competition, in commerce, within the intent and meaning of the Federal Trade Commission Act.

Terral A. Jordan, Esq., for the Commission.

Respondents, for themselves.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) on January 6, 1960, issued its complaint herein, charging respondents Thorndike Mills, Inc., a corporation, and Gabriel M. Garabedian, individually and as an officer of said corporation, with having violated the provisions of the Federal Trade Commission Act, and respondents were duly served with process.

On June 13, 1960, there was submitted to the undersigned hearing examiner of the Commission for his consideration and approval an "Agreement Containing Consent Order To Cease And Desist", which had been entered into by and between respondents and the attorney supporting the complaint, under date of June 7, 1960, subject to the approval of the Bureau of Litigation of the Commission, which had subsequently duly approved the same.

On due consideration of such agreement, the hearing examiner finds that said agreement, both in form and in content, is in accord with § 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, and that by said agreement the parties have specifically agreed to the following matters:

1. Respondent Thorndike Mills, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Massachusetts, with its principal office and place of business located in the City of Thorndike, State of Massachusetts. Respondent Gabriel M. Garabedian is an officer of the corporate re-

spondent. His address is the same as that of the corporate respondent.

2. Respondents admit all of the jurisdictional facts alleged in the complaint and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

3. This agreement disposes of all of this proceeding as to all parties.

4. Respondents waive:

(a) Any further procedural steps before the hearing examiner and the Commission;

(b) The making of findings of fact or conclusions of law; and

(c) All of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement.

5. 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.

6. This agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission.

7. This agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

8. The following order to cease and desist may be entered in this proceeding by the Commission without further notice to respondents. When so entered it shall have the same force and effect as if entered after a full hearing. It may be altered, modified or set aside in the manner provided for other orders. The complaint may be used in construing the terms of the order.

Upon due consideration of the complaint filed herein and the said "Agreement Containing Consent Order To Cease And Desist", this agreement is hereby approved, accepted and ordered filed. The hearing examiner finds from the complaint and the aforesaid "Agreement Containing Consent Order To Cease And Desist" and that Commission has jurisdiction of the subject-matter of this proceeding and of the respondents herein; that the complaint states a legal cause for complaint under the Federal Trade Commission Act against the respondents, both generally and in each of the particulars alleged therein; that this proceeding is in the interest of the public; that the following order as proposed in said agreement is appropriate for the just disposition of all of the issues in this proceeding as to all of the parties hereto; and that said order therefore should be, and hereby is, entered as follows:

It is ordered, That respondents Thorndike Mills, Inc., a corporation, and its officers, and Gabriel M. Garabedian, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of rugs, floor coverings or any other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "viscose" to describe the rayon content of said products unless the word "rayon" appears in immediate conjunction therewith in type or lettering of equal size and conspicuousness;

2. Using the term "wool" or any other word or term indicative of wool to designate or describe any product or portion thereof which is not composed wholly of wool, the fiber from the fleece of a sheep or lamb, or hair of the Angora or Cashmere goat, or hair of the camel, alpaca, llama, or vicuna, which has never been reclaimed from any woven or felted product; provided, that in the case of products or portions thereof which are composed in part of wool and in part of other fibers or materials, the term "wool" may be used as descriptive of the wool content of the product or portion thereof if there are used in immediate connection or conjunction therewith, in letters of at least equal size and conspicuousness, words truthfully designating each constituent fiber or material thereof in the order of its predominance by weight; provided further, that if any fiber or material so designated is not present in a quantity of five percentum or more of the total fiber weight of the product, the percentage thereof shall be stated. Nothing herein shall prohibit the use of the terms "reprocessed wool" or "reused wool" when the products or those portions thereof referred to are composed of such fibers;

3. Representing, directly or indirectly, that the percentage amount of a given fiber contained in said products is other than what it is in fact;

4. Representing, directly or indirectly, the size of said products to be of larger dimensions than is the fact;

Provided, however, That nothing herein shall relieve the respondents from their obligation to comply with the requirements of the Textile Fiber Products Identification Act or forbid the respondents from labeling and otherwise offering products subject to that Act in the manner prescribed thereby and the rules and regulations promulgated thereunder by the Commission.

The terms "reprocessed wool" and "reused wool", as herein used, are to be defined as in § 2 (c) and (d) of the Wool Products Labeling Act.

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Complaint

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 5th day of August 1960, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Thorndike Mills, Inc., a corporation, and Gabriel M. Garabedian, individually and as an officer of said corporation, 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.
