
IN THE MATTER OF
SUN-FAST TEXTILES, INC., ET AL.

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

Docket 8153. Complaint, Oct 24, 1960—Decision, Mar. 4, 1961

Consent order requiring New York City distributors of imported and domestic cotton fabrics to garment manufacturers to cease labeling and invoicing their domestic cotton fabrics falsely as "India Type Madras".

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 Sun-Fast Textiles,

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Inc., a corporation, Moses Schonfeld and Ruth B. Schonfeld, individually and as officers 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 Sun-Fast Textiles, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 125 West 41st Street, New York, New York.

Respondents Moses Schonfeld and Ruth B. Schonfeld are officers of the said corporate respondent. They formulate, direct and control the acts and practices hereinafter set forth. Their 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 advertising, offering for sale, sale and distribution of imported and domestic cotton fabrics to garment manufacturers.

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 New York, 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. Respondents, for the purpose of inducing the purchase of their products, have engaged in the practice of misrepresenting the material of which their products are made or composed, by labeling and invoicing their domestic cotton fabrics as "India Type Madras". In truth and in fact, the said domestic cotton fabrics are not "India Type Madras".

By use of such representations on labels and invoices, respondents represent that their domestic color-fast fabrics are the Madras cotton fabrics imported from India, which have a distinctive character and quality.

The word "Madras" has long been applied to a fabric produced in the Madras Province of India and is made of fine handloomed cotton, and if in a color other than natural, is dyed with bleeding vegetable dyes. Such fabric has for a long time been well and favorably known to the purchasing public.

PAR. 5. By the aforesaid practices, the respondents place in the hands of garment manufacturers and others, the means and instru-

mentalities by and through which they may mislead the public as to the character and quality of their products.

PAR. 6. 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 merchandise of the same general kind and nature as that sold by respondents.

PAR. 7. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had and now has the tendency and capacity 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' products 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. 8. The aforesaid acts and practices of respondents as herein alleged were and are all to the prejudice and injury of the public and to 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.

Mr. Harry E. Middleton, Jr., supporting the complaint.

Mr. Julius J. Rosen, of New York, N.Y., for respondents.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

On October 24, 1960, the Federal Trade Commission issued a complaint charging that the above-named respondents had violated the provisions of the Federal Trade Commission Act. The complaint alleged that respondents had misrepresented the material of which their products are made or composed.

After issuance and service of the complaint the respondents, their attorney, and counsel supporting the complaint entered into an agreement for a consent order. The agreement has been approved by the Acting Director, Associate Director and the Assistant Director of the Bureau of Litigation. The agreement disposes of the matters complained about.

The pertinent provisions of said agreement are as follows: Respondents admit all jurisdictional facts; the complaint may be used in construing the terms of the order; the order shall have the same force and effect as if entered after a full hearing and the said

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agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission; the record herein shall consist solely of the complaint and the agreement; respondents waive the requirement that the decision must contain a statement of findings of fact and conclusion of law; respondents waive further procedural steps before the hearing examiner and the Commission, and the order may be altered, modified, or set aside in the manner provided by statute for other orders; respondents waive any right to challenge or contest the validity of the order entered in accordance with the agreement and the signing of said 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.

The undersigned hearing examiner having considered the agreement and proposed order, hereby accepts such agreement, makes the following jurisdictional findings, and issues the following order:

JURISDICTIONAL FINDINGS

1. Respondent Sun-Fast Textiles, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 125 West 41st Street, New York, New York.

2. Respondents Moses Schonfeld and Ruth B. Schonfeld are officers of the said corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent. Their address is the same as that of the corporate respondent.

3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents hereinabove named and the proceeding is in the public interest.

ORDER

It is ordered, That respondents Sun-Fast Textiles, Inc., a corporation and its officers, and Moses Schonfeld and Ruth B. Schonfeld, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of fabrics or other textile products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "Madras" or any simulation thereof, either alone or in connection with other words to designate, describe, or refer to any fabric or other textile product which is not in fact made of fine cotton, hand-loomed and imported from India, and if the

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cloth is other than natural in color, has not been dyed with bleeding vegetable dyes.

2. Placing in the hands of garment manufacturers and others a means and instrumentality by and through which they may deceive and mislead the purchasing public, concerning merchandise in the respects set out in Paragraph 1, above.

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 4th day of March, 1961, 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

FELL-BASS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL TRADE COMMISSION AND THE WOOL PRODUCTS LABELING ACTS

Docket 7681. Complaint, Dec. 7, 1959—Decision, Mar. 7, 1961

Consent order requiring New York City manufacturers to cease violating the Wool Products Labeling Act by tagging as "100% Virgin Wool", ladies' skirts composed of fabrics containing substantially less than 100% wool, and by failing to label other wool products as required.

Mr. Charles W. O'Connell for the Commission.

DECISION OF THE COMMISSION AS TO RESPONDENT SAM FELL

The hearing examiner's initial decision, wherein the hearing examiner accepted an agreement containing a consent order to cease and desist theretofore executed by the respondents and counsel in support of the complaint, having been served on respondent Sam Fell on February 2, 1961;*

Now, therefore, pursuant to Sec. 3.21 of the Commission's Rules of Practice, said initial decision shall, on March 7, 1961, become the decision of the Commission; and, accordingly,

* Initial decision as to all respondents published in 56 F.T.C. 1181.

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It is ordered, That respondent Sam Fell, individually and as an officer of Fell-Bass, Inc., a corporation, shall, within sixty (60) days after service upon him of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which he has complied with the order to cease and desist contained in the aforesaid initial decision.

IN THE MATTER OF

ULTRAVISION MANUFACTURING CORPORATION ET AL.

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

Docket 8106. Complaint, Aug. 29, 1960—Decision, Mar. 7, 1961

Consent order requiring manufacturers of television picture tubes in Hawthorne, N. J., to cease selling television tubes which were reactivated or reconditioned or rebuilt containing previously used parts without clearly disclosing such facts on the tubes themselves and on cartons and invoices.

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 Ultravision Manufacturing Corporation, a corporation, and Carmine Cifaldi, 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 Ultravision Manufacturing Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the state of New Jersey, with its office and principal place of business located at 185 Goffle Road, Hawthorne, New Jersey.

Respondent Carmine Cifaldi is president of said corporation. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices 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 the manufacture, offering for sale, sale and distribution of television picture tubes, some of which are reactivated or reconditioned and some of which are rebuilt containing used parts, to distributors who sell 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 New Jersey to purchasers thereof located in various other States of the United States, 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. Respondents do not disclose on the tubes or on the cartons in which they are packed or on invoices or in any other manner that said television picture tubes are reactivated or reconditioned or rebuilt containing previously used parts.

PAR. 5. When television tubes are reactivated or reconditioned or rebuilt containing previously used parts, in the absence of a disclosure to the contrary, such tubes are understood to be and are readily accepted by the public as new tubes.

PAR. 6. By failing to disclose the facts as set out in Paragraph Four, respondents place in the hands of uninformed or unscrupulous dealers means and instrumentalities whereby they may mislead and deceive the public as to the nature of their said television picture tubes.

PAR. 7. In the conduct of their business, and at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals engaged in the sale of television picture tubes.

PAR. 8. The failure of respondents to disclose on their television picture tubes, on the cartons in which they are packed, on invoices or in any other manner, that they are reactivated or reconditioned or rebuilt containing used parts, has had and now has, the tendency and capacity to mislead members of the purchasing public into the erroneous and mistaken belief that their said picture tubes are new in their entirety, and into the purchase of substantial quantities of respondents' said tubes by reason of such 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. 9. 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.

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Mr. Michael J. Vitale for the Commission.

Mr. Morton L. Kimmelman, of New York, N. Y., for respondents.

INITIAL DECISION BY WALTER R. JOHNSON, HEARING EXAMINER

In the complaint dated August 29, 1960, the respondents are charged with violating the provisions of the Federal Trade Commission Act.

On December 20, 1960, the respondents and their attorney entered into an agreement with counsel in support of the complaint for a consent order.

Under the foregoing agreement, the respondents admit the jurisdictional facts alleged in the complaint. The parties agree, among other things, that the cease and desist order there set forth may be entered without further notice and have the same force and effect as if entered after a full hearing and the document includes a waiver by the respondents of all rights to challenge or contest the validity of the order issuing in accordance therewith. The agreement further recites that it is for settlement purposes only and does not constitute an admission by the respondents that they have violated the law as alleged in the complaint.

The hearing examiner finds that the content of the agreement meets all of the requirements of section 3.25(b) of the Rules of the Commission.

The hearing examiner being of the opinion that the agreement and the proposed order provide an appropriate basis for disposition of this proceeding as to all of the parties, the agreement is hereby accepted and it is ordered that the agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission. The following jurisdictional findings are made and the following order issued.

1. Respondent Ultravision Manufacturing Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at 185 Goffle Road, Hawthorne, New Jersey.

Respondent Carmine Cifaldi is president of said corporation. He formulates, directs and controls the acts and practices of the corporate respondent. His address is the same as that of the corporate respondent.

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

It is ordered, That respondents Ultravision Manufacturing Corporation, a corporation, and its officers, and Carmine Cifaldi, 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 television picture tubes which have been reactivated or reconditioned, or which have been rebuilt containing used parts, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Failing to clearly disclose on the tubes, on the cartons in which they are packed, on invoices, and in advertising, that said tubes are reactivated or reconditioned, or rebuilt and contain used parts, as the case may be.
2. Placing any means or instrumentality in the hands of others whereby they may mislead the public as to the nature and condition of their television picture tubes.

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 7th day of March, 1961, become the decision of the Commission; and, accordingly:

It is ordered, That 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

TROPICAL FLOWERLAND ET AL.

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

Docket 8114. Complaint, Sept. 15, 1960—Decision, Mar. 7, 1961

Consent order requiring Los Angeles, Calif., sellers of a course of instruction on the growing of orchids and of orchid plants to the public in connection therewith, to cease representing falsely in advertising that by buying the orchid plants set out in their so-called "wholesale catalog" at the listed prices and selling them at retail, purchasers of their course could expect to make substantial profits.

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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 Tropical Flowerland, a corporation, and George T. Hambaugh and Estelle M. Hambaugh, individually and as officers 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 Tropical Flowerland is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its office and principal place of business located at 100 South Vermont Avenue, Los Angeles, California.

Respondents George T. Hambaugh and Estelle M. Hambaugh are officers of said corporation. They formulate, direct and control the policies, acts and practices of said corporation. Their address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time have been, engaged in the advertising, offering for sale, sale and distribution of a course of instruction on the raising or growing of orchids and the sale of orchid plants to the public.

PAR. 3. In the course and conduct of their business, respondents have caused their products, when sold, to be transported from their place of business in the State of California to the purchasers thereof located in other States of the United States, 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. Respondents, in the course and conduct of their business, are now, and have been, in substantial competition, in commerce, with corporations, firms and individuals in the sale of products of the same general kind and nature as those sold by the respondents.

PAR. 5. In the course and conduct of their aforesaid business, and for the purpose of inducing the sale of their products, respondents have caused advertisements to be placed in various publications having a distribution in the various States of the United States. Respondents have also caused advertisements of their products to be mailed to prospective purchasers in States other than the State of California.

PAR. 6. Respondents furnish two orchid plants to the purchasers of their course of instruction. Among the statements in their advertising matter are the following:

With your Course, Tropical Flowerland includes a "Quick-Profit Plan" which lets you start taking orders for Orchid plants immediately—the orders to be filled from our stock, while waiting for your own to develop.

Take orders now—to be filled from our big stock.

Until you have plants of your own to sell, you may take orders from Tropical Flowerland's beautiful illustrated catalog. Orchids like those pictured in this folder and many others, priced to you at our wholesale so you may make big profits.

The catalog referred to is designated as "wholesale catalog."

PAR. 7. Through the use of the aforesaid statements, and others of the same import not specifically set out herein, and the designation "Wholesale Catalog", respondents represent that the prices set out in their catalog for the various orchid plants and other merchandise are wholesale prices and that the purchasers of their courses by purchasing the orchid plants set out therein at the listed prices, can expect to obtain substantial profits by selling such plants at retail prices.

PAR. 8. Said statements and representations were false, misleading and deceptive. In truth and in fact, the prices quoted in said catalog are substantially in excess of the wholesale prices for most, or all, of the orchid plants and other merchandise listed in said catalog and are, in many instances, as much or more than the usual and customary retail prices. There is consequently little or no profit that can be realized from sales at retail of orchid plants purchased from respondents at their catalog prices.

PAR. 9. The use by respondents of the aforesaid false, misleading and deceptive statements and representations has had, and now has, the capacity and tendency to mislead and deceive 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 a substantial number and quantity of respondents' said products because of such erroneous and mistaken belief. As a result thereof, trade has been unfairly diverted to respondents from their competitors and injury has thereby been 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.

Mr. Morton Nesmith for the Commission.

Mr. Henry Junge, of Chicago, Ill., for respondents.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) on September 15, 1960, issued its complaint herein, charging the above-named respondents with having violated the provisions of the Federal Trade Commission Act in certain particulars, and respondents were duly served with process.

On January 16, 1961, 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 counsel for both parties, under date of January 9, 1961, 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 Tropical Flowerland is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 100 South Vermont Avenue, in the City of Los Angeles, State of California.

Respondents George T. Hambaugh and Estelle M. Hambaugh are officers of said corporation. They formulate, direct and control the policies, acts and practices of said corporation. Their address is the same as that of the corporate respondent.

2. Respondents admit all 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 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", the hearing examiner approves and accepts this agreement; finds that the 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 order proposed in said agreement is appropriate for the just disposition of all 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 Tropical Flowerland, a corporation, and its officers, and George T. Hambaugh and Estelle M. Hambaugh, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of orchids and other merchandise, and courses of instruction on the growing of orchids, orchid plants or nursery products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Representing, directly or by implication:

1. That any amount is the wholesale price of merchandise unless it is the price at which the merchandise is usually and customarily sold at wholesale;

2. That any profit can be made in the sale at retail by those purchasing merchandise from respondents unless the price paid to respondents is less than the usual and customary retail price of such merchandise.

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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 7th day of March, 1961, become the decision of the Commission; and, accordingly:

It is ordered That the above-named respondents shall within