

indirectly, the constituent fibers of which such products are composed, or the percentages thereof, in invoices, shipping memoranda, or in any other manner.

It is further 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 this order.

IN THE MATTER OF
ACUSHNET CARPET MILLS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE TEXTILE FIBER PRODUCTS
IDENTIFICATION ACTS

Docket 8412. Complaint, June 1, 1961—Decision, Sept. 29, 1961

Consent order requiring manufacturers in New Bedford, Mass., to cease violating the Textile Fiber Products Identification Act by advertising on a price list as "Woolray Blend of wool, rayon, cotton, nylon", rugs the constituent fibers of which were not designated in the order of predominance as required, and in which the wool content—implied to be substantial by the term "Woolray"—was insignificant; by failing to label rugs with the true generic name of fibers in the order of their predominance by weight and the "other fibers" present in amounts of 5% or less, together with percentages of each; and by failing to comply with other requirements of the Act; and to cease violating the Federal Trade Commission Act by labeling as "Approx. 9' x 12'", rugs which are substandard both in length and in width by as much as eight inches.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Textile Fiber Products Identification Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Acushnet Carpet Mills, Inc., a corporation, and Martin Berdy and Morris Lefkowitz, individually and as officers of said corporation, and Arcco Selling Agency, Inc., a corporation, and Myron S. Rosenberg, I. Stanley Bailey and Milton L. Rosenberg, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of such Acts

and the Rules and Regulations under the Textile Fiber Products Identification 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 Acushnet Carpet 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 at 95 Rodney French Boulevard, New Bedford, Massachusetts. Respondent corporation is the manufacturer of "Woolray Braided Rugs." Respondent sells their said rugs to purchasers directly and through its exclusive sales agency hereinafter referred to.

Individual respondents Martin Berdy and Morris Lefkowitz are president and secretary-treasurer, respectively, of corporate respondent Acushnet Carpet Mills, Inc. Said individual respondents formulate, direct and control the acts, practices and policies of the corporate respondent. The office and principal place of business of the individual respondents is the same as that of the corporate respondent.

PAR. 2. Respondent Arcco Selling Agency, 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 295 Fifth Avenue, New York, New York. Respondent corporation is the exclusive sales agency in the United States of Acushnet Carpet Mills, Inc. for its "Woolray Braided Rugs."

Individual respondents Myron S. Rosenberg, I. Stanley Bailey, and Milton L. Rosenberg are president, vice-president and secretary-treasurer, respectively of corporate respondent Arcco Selling Agency, Inc. Said individual respondents formulate, direct and control the acts, practices and policies of this corporate respondent. The office and principal place of business of the individual respondents is the same as that of the corporate respondent.

PAR. 3. Subsequent to the effective date of the Textile Fibers Products Identification Act on March 3, 1960, respondents have been and are now engaged in the introduction, delivery for introduction, manufacture for introduction, sale, advertising, or offering for sale, in commerce, or in the transportation or causing to be transported in commerce, or in the importation into the United States, of textile fiber products; or have sold, offered for sale, advertised, delivered, transported or caused to be transported, textile fiber products, which have been advertised or offered for sale in commerce; or have sold, offered for sale, advertised, delivered, transported or caused to be transported, after shipment in commerce, textile fiber products, either in their original state or contained in other textile products so shipped in

commerce; as the terms "commerce" and "textile fiber products" are defined in the Textile Fiber Products Identification Act.

PAR. 4. Certain of said textile fiber products were misbranded by respondents within the intent and meaning of Section 4(a) of the Textile Fiber Products Identification Act, in that they were falsely and deceptively advertised as to the name or amount of the constituent fibers contained therein.

Among such misbranded textile fiber products were rugs advertised on a price list as "Woolray Blend of wool, rayon, cotton, nylon." In truth and in fact, the constituent fibers in said products were not designated in the order of predominance by weight as required in Section 4(b)(1) of said Act. Further, the term "Woolray" implies the rugs contain substantial amounts of wool, whereas the woolen fibers present are insignificant in amount.

PAR. 5. Such textile fiber products, namely rugs, were misbranded by respondents in that they were not stamped, tagged, or labeled with the information required under Section 4(b) of the Textile Fiber Products Identification Act, and in the manner and form as prescribed by the Rules and Regulations promulgated under such Act. Among such misbranded textile fiber products but not limited thereto were textile fiber products, namely rugs, with labels which failed: (a) To show the true generic names of each of the fibers present exceeding 5 percentum of the total fiber weight of the said textile fiber product in the order of their predominance by weight, (b) To show fibers present in the amount of 5 percentum or less as "other fiber" or "other fibers", (c) To show the percentage of each fiber present by weight together with the percentage of such other fiber or fibers.

PAR. 6. Certain of said textile fiber products, namely rugs, were falsely and deceptively advertised under Section 4(c) of the Textile Fiber Products Identification Act in that a written advertisement, to wit: a price list, was used to aid, promote, or assist directly or indirectly in the sale or offering for sale of such braided rugs, by use of the terminology "Woolray Blend of wool, rayon, cotton, nylon" rather than the generic names of the fibers present in the order of their predominance as required by Section 4(b)(1) and (2) of said Act.

PAR. 7. Respondents made representations as to the fiber contents of certain textile fibers products, namely, rugs, on price lists without setting forth a full and complete fiber content disclosure on the fiber content tags attached to such textile fiber products, in violation of Rule 14(c) of the Rules and Regulations promulgated under the said Textile Fiber Products Identification Act.

PAR. 8. The respondents, in the course and conduct of their business, as aforesaid, were and are in substantial competition with other

corporations, firms and individuals likewise engaged in the manufacture and sale of textile fiber products, in commerce.

PAR. 9. The acts and practices of respondents, as set forth herein, were in violation of the Textile Fiber Products Identification Act, 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.

PAR. 10. In the course and conduct of their business and for the purpose of inducing the purchase of their braided rugs, respondents Acushnet Carpet Mills, Inc., and its officers have engaged in the practice of setting out the sizes of various rugs on labels attached thereto. Certain of the aforesaid labels contain the representation "Approx. 9' x 12' ". A 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 Acushnet Carpet Mills, Inc., and its officers by mislabeling these rugs and Arcco Selling Agency, Inc., and its officers, the exclusive selling agent, by selling such mislabeled rugs to retailers, have placed in the hands of such retailers the means and instrumentality through and by which the consuming public may be misled as to the actual size of the said rugs.

PAR. 11. 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 thus induced the purchase of substantial quantities of respondents' rugs 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. 12. 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.

DECISION AND ORDER

This matter having come on to be heard by the Commission upon a record consisting of the Commission's complaint charging the respondents in the proceeding with violation of the Federal Trade Commission Act and the Textile Fiber Products Identification Act, and an agreement by and between respondents and counsel supporting the com-

Order

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plaint, which agreement contains an order to cease and desist, an admission by respondents of all the jurisdictional facts alleged in the 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 the complaint, and waivers and provisions as required by the Commission's rules, and further provides for dismissal of the complaint as to respondent Milton L. Rosenberg, individually and as an officer of corporate respondent Arcco Selling Agency, Inc.; and

The Commission having considered the agreement and order contained therein and being of the opinion that the agreement provides an adequate basis for an appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings are made, and the following order is entered:

1. Respondent Acushnet Carpet Mills, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Massachusetts, with its office and principal place of business located at 95 Rodney French Boulevard, New Bedford, Massachusetts.

Individual respondents Martin Berdy and Morris Lefkowitz are officers of corporate respondent Acushnet Carpet Mills, Inc., and their address is the same as that of said corporate respondent.

2. Respondent Arcco Selling Agency, Inc., is a corporation organized, 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 295 Fifth Avenue, New York, New York.

Individual respondents Myron S. Rosenberg and I. Stanley Bailey are officers of corporate respondent Arcco Selling Agency, Inc., and their address is the same as that of said corporate respondent.

3. 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 Acushnet Carpet Mills, Inc., a corporation, its officers, Martin Berdy and Morris Lefkowitz, individually and as officers of said corporation, and Arcco Selling Agency, Inc., a corporation, its officers, and Myron S. Rosenberg and I. Stanley Bailey, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, manufacture for introduction, sale, advertising or offering for sale, in commerce, or in the transportation or causing to be transported in commerce, or in the importation into the United

States, of textile fiber products; or in connection with the selling, offering for sale, advertising, delivering, transporting, or causing to be transported, textile fiber products, which have been advertised or offered for sale, in commerce; or in connection with the selling, offering for sale, advertising, delivering, transporting, or causing to be transported, after shipment in commerce, textile fiber products, either in their original state or which were contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding such products by falsely or deceptively stamping, tagging, labeling, invoicing, advertising or otherwise identifying such products as to the name or amount of constituent fibers contained therein.

B. Misbranding textile fiber products by failing to affix labels to such products showing each element of information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act.

C. Making any representations by disclosure or by implication of the fiber contents of any textile fiber product in any written advertisement which is used to aid, promote, or assist directly or indirectly in the sale or offering for sale of such textile fiber product unless the same information required to be shown on the stamp, tag, label or other means of identification under Section 4(b)(1) and (2) of the Textile Fiber Products Identification Act is contained in the said advertisement, except that the percentages of the fibers present in the textile fiber product need not be stated.

D. Making any representations as to fiber content of any textile fiber product or any portion of a textile fiber product which has been labeled as being composed of unknown or undetermined fibers.

It is further ordered, That respondents Acushnet Carpet Mills, Inc., a corporation, its officers, and Martin Berdy and Morris Lefkowitz, individually and as officers of said corporation, and Arcco Selling Agency, Inc., a corporation, its officers, and Myron S. Rosenberg and I. Stanley Bailey, individually and as officers 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 or any other product in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

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

It is further ordered, That the complaint be, and the same hereby

is, dismissed as to Milton L. Rosenberg, individually and as an officer