

is, dismissed as to Milton L. Rosenberg, individually and as an officer of Arcco Selling Agency, Inc.

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

RODLESS DECORATIONS, 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 8429. Complaint, June 16, 1961—Decision, Oct. 3, 1961

Consent order requiring New York City manufacturers to cease violating the Textile Fiber Products Identification Act by labeling "100% 'Dacron' Polyester, Trim consists of All Cotton", curtains which contained no "Dacron" polyester; by failing to label curtains with the true generic names of constituent fibers and the percentage of each by weight and to show "other fibers" present; by failing to keep proper records showing the fiber content of their products; and by furnishing false guaranties that their products were not misbranded or falsely invoiced.

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 Rodless Decorations, Inc., a corporation, and Charles Druck, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of such Acts and the Rules and Regulations under the Textile Fiber Identification Act, and it appearing to the Commission that a proceeding by it would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Rodless Decorations, 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 place of business located at 256 Fifth Avenue, New York, New York.

Respondent Charles Druck is an officer of the corporate respondent. He formulates, directs, and controls the acts and practices of the corporate respondent. His address is the same as that of the corporate respondent.

PAR. 2. Subsequent to the effective date of the Textile Fiber 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, and offering for sale, in commerce and in the transportation or causing to be transported in commerce, of textile fiber products; and have sold, offered for sale, advertised, delivered, transported and caused to be transported, textile fiber products, which have been advertised and offered for sale in commerce; and have sold, offered for sale, advertised, delivered, transported and caused to be transported, after shipment in commerce, textile fiber products, either in their original state or which were 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. 3. 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 and the Rules and Regulations promulgated thereunder, in that they were falsely and deceptively tagged or labeled, invoiced, advertised or otherwise identified as to the name or amount of the constituent fibers contained therein.

Among such textile fiber products were window curtains labeled by respondents as "100% 'Dacron' Polyester, Trim consists of All Cotton," whereas in truth and in fact the said curtains contained no "Dacron" polyester.

PAR. 4. Certain of said textile fiber products were further misbranded by respondents in that they were not stamped, tagged or labeled as required under the provisions of Section 4(b) of the Textile Fiber Products Identification Act, and in the manner and form prescribed by the Rules and Regulations promulgated thereunder.

Among such misbranded textile fiber products but not limited thereto were textile fiber products, namely curtains, with labels which failed: (a) To disclose the true generic names of each of the fibers present exceeding five percentum of the total fiber weight of the said textile fiber products in the order of their predominance by weight, (b) To show the fibers present in the amount of five 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. 5. Respondents have failed to maintain proper records showing the fiber content of the textile fiber products manufactured by them, in violation of Section 6(a) of the Textile Fiber Products Identification Act and Rule 39 of the Regulations promulgated thereunder.

PAR. 6. Respondents have furnished a false guaranty that certain of their textile fiber products were not misbranded or falsely invoiced,

in violation of Section 10 of the Textile Fiber Products Identification Act.

PAR. 7. Respondents, in the course and conduct of their business, as aforesaid, were and are in substantial competition in commerce with corporations, firms and individuals likewise engaged in the manufacture and sale of textile fiber products, including window curtains.

PAR. 8. The acts and practices of the respondents, as set forth above, were and are in violation of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder, 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. Edward B. Finch for the Commission.

Mr. Richard M. Michaelson for respondents.

INITIAL DECISION BY HERMAN TOCKER, HEARING EXAMINER

Rodless Decorations, Inc. is a corporation organized and existing under the laws of the State of New York, and Charles Druck, who formulates, directs and controls its acts and practices, is an officer thereof. They are engaged in business at 256 Fifth Avenue, in the City and State of New York.

In a complaint issued June 16, 1961, said corporation and individual were charged with violating the Federal Trade Commission Act and the Textile Fiber Products Identification Act by misbranding textile fiber products,* failing to maintain fiber content records and furnishing a false guaranty with respect to the branding of such products.

Together with the advice and consent of their attorney, on August 1, 1961, they entered into an agreement with counsel supporting the complaint wherein it is provided, in accordance with Section 3.25 of the Rules of Practice applicable to this case, for the entry of a consent order to cease and desist. The proposed order would dispose of all the issues herein.

In the agreement it is expressly provided that the signing thereof is for settlement purposes only and does not constitute an admission by the respondents that they have violated the law as in the complaint alleged.

By the terms of the agreement, the respondents admit all the jurisdictional facts alleged in the complaint and agree that the record herein may be taken as if the Commission had made findings of jurisdictional facts in accordance with the allegations.

*As modified by order of Sept. 25, 1961.

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Order

By the agreement, the respondents expressly waive any further procedural steps before the Hearing Examiner and the Commission, the making of findings of fact or conclusions of law, and all rights they may have to challenge or contest the validity of the order to cease and desist to be entered in accordance therewith.

Respondents further agree that the order to cease and desist, to be issued in accordance with the agreement, shall have the same force and effect as if made after a full hearing.

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

The Hearing Examiner has considered the agreement and the order therein contained, and, it appearing that said agreement and order provide for an appropriate disposition of this proceeding, the same is hereby accepted and shall be filed upon becoming part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the Rules of Practice.

Now, in consonance with the terms thereof, the Hearing Examiner finds that the Federal Trade Commission has 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 respondents Rodless Decorations, Inc., a corporation and its officers, and Charles Druck, 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 introduction, delivery for introduction, manufacture for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported, in commerce, or the importation into the United States of textile fiber products; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of textile fiber products which have been advertised or offered for sale in commerce, or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of textile fiber products, whether in their original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber products" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by :

1. Falsely or deceptively stamping, tagging, labeling, invoicing, advertising, or otherwise identifying such products as to the name or amount of constituent fibers contained therein ;

2. 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.

B. Failing to maintain records of fiber content of textile fiber products manufactured by them, as required by Section 6(a) of the Textile Fiber Products Identification Act and Rule 39 of the Regulations thereunder.

C. Furnishing false guaranties that textile fiber products are not misbranded or falsely invoiced, under the provisions of the Textile Fiber Products Identification Act.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having considered the hearing examiner's initial decision, filed August 18, 1961, accepting an agreement containing a consent order theretofore executed by the respondents and counsel in support of the complaint; and

It appearing that the second paragraph in the initial decision, purporting to summarize the charges in the complaint is in error; and the Commission being of the opinion that this error should be corrected:

It is ordered, That the initial decision be, and it hereby is, modified by striking from the fourth and fifth lines of the second paragraph on page one of said decision the words "sold and distributed by them in commerce" as they appear immediately following the word "products" in the fourth line.

It is further ordered, That the initial decision, as herein modified, shall on the 3rd day of October 1961, become the decision of the Commission.

It is further ordered, That the respondents 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 contained in the aforesaid initial decision, as modified.

Complaint

IN THE MATTER OF

KEMWORTH LABORATORIES, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 8439. Complaint, June 16, 1961—Decision, Oct. 3, 1961*

Consent order requiring distributors of drugs in Orange, N.J., to cease representing falsely in advertisements in periodicals, by such statements as "Rigid quality control", that they employed an adequate control system for their products.

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 Kemworth Laboratories, Inc., a corporation, and Harold H. Fisher, 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 Kemworth Laboratories, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its principal office and place of business located at 554 Mitchell Street in the City of Orange, State of New Jersey.

Respondent Harold H. Fisher 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 hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and have been for more than one year last past, engaged in the sale and distribution, to drug wholesalers and distributors, of drugs and preparations containing ingredients which come within the classification of drugs as the term "drug" is defined in the Federal Trade Commission Act.

Among, but not all inclusive of, the said drugs and preparations are those designated as follows:

1. "Chorionic Gonadotropin Lyophilized"
2. "Posterior Pituitary Solution, U.S.P."
3. "Vitamin B-12 Solution"

PAR. 3. Respondents cause their said drugs and preparations, when sold, to be transported from their place of business in the State of New