

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

BEA WRIGHT, INC., ET AL.

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

Docket C-79. Complaint, Feb. 16, 1962—Decision, Feb. 16, 1962

Consent order requiring New York City manufacturers to cease violating the Flammable Fabrics Act by selling ladies' dresses which were so highly flammable as to be dangerous when worn, and furnishing their customers with a guaranty that the required tests showed the dresses were not dangerously flammable.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, and by virtue of the authority vested

in it by said Acts, the Federal Trade Commission, having reason to believe that Bea Wright, Inc., a corporation, Bea Rite Frocks, Inc., a corporation, and Philip Silverman and Louis Levitan, individually and as officers of said corporations, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Flammable Fabrics 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 charge in that respect as follows:

PARAGRAPH 1. Respondents Bea Wright, Inc., and Bea Rite Frocks, Inc., are corporations duly organized, existing and doing business under and by virtue of the laws of the State of New York. Individual respondents Philip Silverman and Louis Levitan are respectively president and treasurer of both corporate respondents, and formulate, direct and control the acts, practices and policies of the corporate respondents. The principal place of business of the said corporate respondents is 463 Seventh Avenue, New York, N.Y. The address of the individual respondents is the same as the corporate respondents.

PAR. 2. Subsequent to the effective date of the Flammable Fabrics Act on July 1, 1954, respondents have manufactured for sale, sold and offered for sale, in commerce; have imported into the United States; and have introduced, delivered for introduction, transported or caused to be transported in commerce; and have transported and caused to be transported for the purpose of sale or delivery after sale in commerce; as "commerce" is defined in the Flammable Fabrics Act, articles of wearing apparel, as the term "article of wearing apparel" is defined therein, which articles of wearing apparel were, under the provisions of Section 4 of the Flammable Fabrics Act, as amended, so highly flammable as to be dangerous when worn by individuals.

Among such articles of wearing apparel mentioned above were ladies' dresses.

PAR. 3. Respondents, subsequent to July 1, 1954, the effective date of the Flammable Fabrics Act, have manufactured for sale, sold and offered for sale, articles of wearing apparel made of fabric which was, under Section 4 of the Act, as amended, so highly flammable as to be dangerous when worn by individuals, and which fabric, as the term "fabric" is defined in the Flammable Fabrics Act, had been shipped and received in commerce.

Among such articles of wearing apparel mentioned above were ladies' dresses.

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PAR. 4. Respondents subsequent to July 1, 1954, have furnished their customers with a guaranty with respect to the articles of wearing apparel, mentioned in paragraph 2 hereof, to the effect that reasonable and representative tests made under the procedures provided in Section 4 of the Flammable Fabrics Act, as amended, and the Rules and Regulations promulgated thereunder, show that said articles of wearing apparel are not, in the form delivered by respondents, so highly flammable under the provisions of the Flammable Fabrics Act as to be dangerous when worn by individuals. There was reason for respondents to believe that the articles of wearing apparel covered by such guaranty might be introduced, sold, or transported in commerce.

Said guaranty was false in that with respect to some of said articles of wearing apparel, respondents have not made such reasonable and representative tests.

PAR. 5. The aforesaid acts and practices of respondents were and are in violation of the Flammable Fabrics Act and the Rules and Regulations promulgated thereunder, and as such constitute unfair methods of competition and unfair and deceptive acts and practices in commerce, within the intent and meaning of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act and the Flammable Fabrics Act, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondents of all the jurisdictional facts set forth in the complaint to issue herein, 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 set forth in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondents Bea Wright, Inc., and Bea Rite Frocks, Inc., are corporations organized, existing and doing business under and by virtue of the laws of the State of New York, with their offices and

principal place of business located at 463 Seventh Avenue, in the city of New York, State of New York.

Respondents Philip Silverman and Louis Levitan are officers of said corporations and their address is the same as that of said corporations.

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 the respondents Bea Wright, Inc., and Bea Rite Frocks, Inc., corporations, and their officers, and Philip Silverman and Louis Levitan, individually and as officers of said corporations, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from:

1. (a) Importing into the United States; or
- (b) Manufacturing for sale, selling, offering for sale, introducing, delivering for introduction, transporting or causing to be transported, in commerce, as "commerce" is defined in the Flammable Fabrics Act; or
- (c) Transporting or causing to be transported, for the purpose of sale or delivery after sale in commerce;

any article of wearing apparel which, under the provisions of Section 4 of the said Flammable Fabrics Act, as amended, is so highly flammable as to be dangerous when worn by individuals.

2. Manufacturing for sale, selling, or offering for sale any article of wearing apparel made of fabric which has been shipped or received in commerce and which fabric, under Section 4 of the Flammable Fabrics Act, as amended, is so highly flammable as to be dangerous when worn by individuals.

3. Furnishing to any person a guaranty with respect to any article of wearing apparel which respondents, or any of them, have reason to believe may be introduced, sold or transported in commerce, which guaranty represents, contrary to fact, that reasonable and representative tests made under the procedures provided in Section 4 of the Flammable Fabrics Act, as amended, and the Rules and Regulations promulgated thereunder, show and will show that the article of wearing apparel, or the fabric used or contained therein, covered by the guaranty, is not, in the form delivered or to be delivered by the guarantor, so highly flammable under the provisions of the Flammable Fabrics Act as to be dangerous when worn by individuals, provided, however, that this prohibition shall not be applicable to a guaranty furnished

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on the basis of, and in reliance upon, a guaranty to the same effect received by respondents in good faith signed by and containing the name and address of the person by whom the article of wearing apparel or fabric was manufactured or from whom it was received.

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

ASHEVILLE TOBACCO BOARD OF TRADE, INC., ET AL.

MODIFIED ORDER IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL
TRADE COMMISSION ACT

Docket 6490. Modified order, Feb. 19, 1962

Order modifying, in accordance with the decision of the Fourth Circuit Court of Appeals of Sept. 20, 1961, the Commission's modified order dated Oct. 18, 1960, 57 F.T.C. 896.

MODIFIED ORDER TO CEASE AND DESIST

Respondents having filed a petition in the United States Court of Appeals for the Fourth Circuit to review the Commission's modified order to cease and desist issued on October 18, 1960, and the Court having on September 20, 1961, issued its opinion and entered its decree modifying the Commission's said modified order, affirming the order as so modified and remanding the cause to the Commission for further proceedings consistent with the said opinion, and having on October 10, 1961, entered its order amending its said decree of September 20, 1961, by requiring the respondents to comply with the Commission's order as modified by the Court, and the Commission being of the opinion that its order should be modified in accordance with the Court's decision:

It is ordered, That respondents Asheville Tobacco Board of Trade, Inc., a corporation, and Max M. Roberts, President and director, J. Carlie Adams, Vice President and director, Fred D. Cockfield, Secretary-Treasurer and director, Jeter P. Ramsey, ex officio Assistant to the Secretary, Supervisor of Sales and General Director of the Asheville market, L. G. Hill, director, James M. Stewart, director, and James E. Walker, Jr., director, all individually and as officers and directors of Asheville Tobacco Board of Trade, Inc., and James

E. Walker, Jr., and John B. Walker, part owners, co-managers and operators of Bernard-Walker Warehouses; J. Carlie Adams and Luther Hill, co-partners trading under the name and style of Adams & Hill Warehouses; Farmers Federation Cooperative, Inc., a corporation, leasing and operating Carolina Warehouse; Fred D. Cockfield, and James M. Stewart, co-partners trading under the name and style of Planters Warehouses; Sherrod N. Landon, J. W. Moore, E. G. Anderson, J. E. Godwin, Beverly G. Connor, W. G. Maples, members of Asheville Tobacco Board of Trade, Inc., individually and as officers, directly or through any corporate or other device, in connection with procuring, purchasing, offering to purchase, selling or offering for sale leaf tobacco, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from devising, adopting, using, adhering to, maintaining or cooperating in the carrying out of any plan, system, method, policy or practice which:

1. Allots selling time to new entrant warehouses on the Asheville tobacco market on any basis or in any manner which refuses to give any credit to the size and capacity of a new entrant in excess of the average size and capacity of all the warehouses in the market;
2. Limits the possible gain or loss in selling time allotted to any warehouse for any one selling season to $3\frac{1}{2}\%$ of the selling time allotted to such warehouse for the preceding selling season; or
3. Has the purpose or effect of foreclosing or preventing a new entrant warehouse on the Asheville tobacco market, or any other warehouse doing business on that market from competing therein.

It is further ordered, That respondents shall, within sixty (60) days after service upon them of this modified order to cease and desist, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied therewith.