

of their products.

4. Furnishing or otherwise placing in the hands of retailers or dealers in said products the means and instrumentalities by and through which they may mislead or deceive the public in the manner or as to the things hereinabove prohibited.

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

HERTER'S, INC., ET AL.

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

Docket C-144. Complaint, May 29, 1962—Decision, May 29, 1962

Consent order requiring sellers in Waseca, Minn., to cease violating the Textile Fiber Products Identification Act by falsely labeling, invoicing, and advertising as "Nylodown", sleeping bags which did not contain either nylon or down, and failing to set forth in advertising "Nylodown", "duck", and "flannel" sleeping bags the required information as to fiber content.

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 Herter's, Inc., a corporation, and George L. Herter, Berthe E. Herter, Clara Howald and Howard W. Herbst, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated 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 Herter's, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota, with its office and principal place of business located at Rural Route One, Waseca, Minnesota.

Individual respondents George L. Herter, Berthe E. Herter, Clara Howald and Howard W. Herbst, are President, Vice President, Secretary-Treasurer and Assistant Secretary, respectively, of said corporate respondent and formulate, direct and control the acts, practices and policies of the corporate respondent, including those hereinafter set forth. The address and principal place of business of the individual respondents 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, sale, advertising and offering for sale, in commerce, and in the transportation or causing to be transported in commerce, and the importation into the United States, 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 or 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 contained in other textile fiber products; as the terms "commerce" and "textile fiber product" 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 stamped, tagged, labeled, invoiced, advertised or otherwise identified as to the name or amount of constituent fibers contained therein.

Among such misbranded textile fiber products, but not limited thereto, were sleeping bags which were falsely and deceptively labeled as "Nylodown" when, in truth and in fact, the product or portion thereof so described did not contain either "nylon" or "down."

Also among such misbranded textile fiber products were sleeping bags which were falsely and deceptively advertised in Herter's Catalog No. 71, Spring, Summer 1961, pages 416 and 417, which catalog is published and distributed by Herter's, Inc., in the State of Minnesota, and has a wide circulation in said State, and various other States of the United States, in that such sleeping bags were advertised

in said catalog as being made in whole or in part of "Nylodown" when, in truth and in fact, the textile fiber product or portion thereof so described did not contain either "nylon" or "down."

PAR. 4. Certain of said textile fiber products were falsely and deceptively labeled in that respondents used words, symbols, or depictions which constitute or imply the name or designation of a fiber or fibers which are not present in the product, in violation of Rule 18 of the Rules and Regulations under the Textile Fiber Products Identification Act.

Among such misbranded textile fiber products were sleeping bags which were falsely and deceptively labeled as "Nylodown" when, in truth and in fact, the product did not contain either "nylon" or "down."

PAR. 5. Certain of said textile fiber products were falsely and deceptively advertised in that respondents in making disclosures or implications as to the fiber content of such textile fiber products in written advertisement used to aid, promote, and assist directly or indirectly in the sale or offering for sale of said products, failed to set forth the required information as to fiber content as specified by Section 4(c) of the Textile Fiber Products Identification Act and in the manner and form prescribed by the Rules and Regulations promulgated under said Act.

Among such falsely and deceptively advertised textile fiber products, but not limited thereto, were sleeping bags which were advertised in Herter's Catalog No. 71, Spring, Summer 1961, pages 416 and 417, which catalog is published by Herter's, Inc., in the State of Minnesota, and has wide circulation in said State and various other States of the United States, in that such sleeping bags were advertised by use of such terms as "Nylodown", "duck" and "flannel" without setting forth the information as to fiber content required to be disclosed by Section 4(c) of the Act.

PAR. 6. The acts and practices of 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 methods of competition and unfair and deceptive acts or practices, in commerce, under 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 Textile Fiber Products Identification 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 the 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. Respondent, Herter's, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota, with its office and principal place of business located at Rural Route One, in the city of Waseca, State of Minnesota.

Respondents George L. Herter, Berthe E. Herter, Clara Howald, and Howard W. Herbst, are officers of said corporation and their address is the same as that of said corporation.

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 Herter's, Inc., a corporation, and its officers, and George L. Herter, Berthe E. Herter, Clara Howald and Howard W. Herbst, 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, 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 any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has 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 any textile fiber product, whether in its original state or 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 textile fiber products by falsely or deceptively stamping, tagging, labeling, invoicing, advertising or otherwise identifying such products:

1. As to the name or amount of constituent fibers contained therein.
2. By using the term "Nylodown" or words or terms of similar import to describe textile fiber products or portions of textile fiber products which are not composed of nylon and down.

B. Misbranding textile fiber products by falsely or deceptively stamping, tagging or labeling such products by the use of words, symbols or depictions which constitute or imply the name or designation of a fiber which is not present in the product.

C. Making any representations by disclosure or by implication of the fiber content 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.

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

LIVINGSTON BROS., INC.