

form in which they have complied with this order.

IN THE MATTER OF
THE FABRIC SHOP, INC., ET AL.

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

Docket C-218. Complaint, Sept. 10, 1962—Decision, Sept. 10, 1962

Consent order requiring sellers of fabrics in Louisville, Ky., to cease violating the Textile Fiber Products Identification and the Wool Products Labeling Acts by falsely advertising textile fiber products in newspapers as "Linen Weave", failing to set forth the true generic names of fibers contained in products and in the proper order, using the names of fur-bearing animals for fabrics which were not fur products, and removing required labels prior

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to ultimate sale; failing to identify the manufacturer, etc., of wool products; and failing in other respects to comply with requirements of the Acts, as in the order below more specifically indicated.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, the Textile Fiber Products Identification Act, and the Wool Products Labeling Act of 1939 and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that The Fabric Shop, Inc., a corporation, and Julius Lazar and Werner Herz, 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 the Wool Products Labeling Act of 1939 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 The Fabric Shop, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Kentucky. Individual respondents Julius Lazar and Werner Herz are officers of corporate respondent and formulate, direct and control the acts, practices and policies of the corporate respondent.

Respondents are engaged in the retail sale of fabrics and have their office and principal place of business at 218 South Fourth Street, Louisville, Ky.

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 in 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 Regu-

lations 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 fabrics which were falsely and deceptively advertised in *The Courier-Journal*, a newspaper published in the city of Louisville, Commonwealth of Kentucky, and having a wide circulation in said State and various other States of the United States in that certain of said advertisements contained terms which represented either directly or by implication that certain fibers were present when such was not the case.

Among such terms, but not limited thereto, was the term "Linen Weave", when no linen was present in the said product.

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 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 said Act.

Among such misbranded textile fiber products but not limited thereto were textile fiber products, namely fabrics, without labels and with labels which failed:

1. To disclose the name or other identification issued and registered by the Commission of the manufacturer of the product or one or more persons subject to Section 3 of the said Act, with respect to such product.

2. To disclose the percentage of such fibers present by weight.

3. To disclose the true generic name of the fibers present.

PAR. 5. Certain of said textile fiber products were misbranded by respondents in violation of the Textile Fiber Products Identification Act in that they were not labeled in accordance with the Rules and Regulations promulgated thereunder in the following respects:

- A. Information required under Section 4(b) of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder was set forth in handwriting on labels in violation of Rule 16(b) of the aforesaid Rules and Regulations.

- B. Fiber trademarks were placed on labels without the generic names of the fibers appearing on such labels, in violation of Rule 17(a) of the aforesaid Rules and Regulations.

- C. Fiber trademarks were used on labels without full and complete fiber content disclosure appearing on such labels, in violation of Rule 17(b) of the aforesaid Rules and Regulations.

PAR. 6. After certain textile fiber products were shipped in commerce, respondents removed or caused or participated in the removal of the stamps, tags, labels, or other means of identification required by the Textile Fiber Products Identification Act to be affixed to such textile fiber products prior to the time such textile fiber products were sold and delivered to the ultimate consumer, in violation of Section 5(a) of said Act and the Rules and Regulations promulgated thereunder.

PAR. 7. 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 advertisements 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 textile fiber products but not limited thereto, were fabrics which were falsely and deceptively advertised in *The Courier-Journal*, a newspaper published in the city of Louisville, Commonwealth of Kentucky and having a wide circulation in said State and various other States of the United States, in the following respects:

1. The true generic names of the fibers in such articles were not set forth.

2. The generic names of the fibers contained in such products were not set forth in the order of predominance by weight.

PAR. 8. Certain of said textile fiber products were falsely and deceptively advertised in violation of the Textile Fiber Products Identification Act in that they were not advertised in accordance with the Rules and Regulations promulgated thereunder.

Among such textile fiber products but not limited thereto, were textile fiber products which were falsely and deceptively advertised in *The Courier-Journal*, a newspaper published in the city of Louisville, Commonwealth of Kentucky and having a wide circulation in said State and various other States of the United States in the following respects:

- A. Fiber trademarks were used in advertising textile fiber products, namely fabrics, without a full disclosure of the fiber content information required by the said Act, and the Rules and Regulations thereunder in at least one instance in said advertisements, in violation of Rule 41(a) of the aforesaid Rules and Regulations.

B. Fiber trademarks were used in advertising textile fiber products, namely fabrics, containing more than one fiber and such fiber trademarks did not appear in the required fiber content information in immediate proximity and conjunction with the generic names of the fibers to which they related in plainly legible type or lettering of equal size and conspicuousness, in violation of Rule 41(b) of the aforesaid Rules and Regulations.

C. Fiber trademarks were used in advertising textile fiber products, namely fabrics, containing only one fiber and such fiber trademarks did not appear, at least once in the said advertisements in immediate proximity and conjunction with the generic names of the fibers to which they related in plainly legible and conspicuous type, in violation of Rule 41(c) of the aforesaid Rules and Regulations.

D. The generic name of a fiber was used in advertising textile fiber products, in such a manner as to be false, deceptive, and misleading as to fiber content and to indicate, directly or indirectly, that such textile fiber product was composed wholly or in part of such fiber when such was not the case, in violation of Rule 41(d) of the aforesaid Rules and Regulations.

Among such products, but not limited thereto, were textile fiber products, namely fabrics, advertised as "Linen Weave" thus implying that such products were composed wholly or in part of linen when in fact the products contained no linen.

E. Nonrequired information and representations used in advertising textile fiber products were false, deceptive and misleading as to the fiber content of the textile fiber products and were set forth and used so as to interfere with, minimize and distract from the required information, in violation of Rule 42(b) of the aforesaid Rules and Regulations.

Among such products, but not limited thereto, were textile fiber products, namely fabrics, advertised as "Linen Weave" thus representing, directly or by implication, that the said products contained linen when such was not the case.

PAR. 9. Certain of said textile fiber products were falsely and deceptively advertised by means of labels affixed to such textile fiber products in that the names of fur-bearing animals, including leopard and ocelot, but not limited thereto, were used in the advertising of such products when said products or parts thereof in connection with which the names of the fur-bearing animals were used were not furs or fur products within the meaning of the Fur Products Labeling Act and did not contain the hair or fiber of such fur-bearing animals, in violation of Section 4(g) of the Textile Fiber Products Identification

Act and Rule 9 of the Rules and Regulations promulgated thereunder.

PAR. 10. 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 and practices, in commerce, under the Federal Trade Commission Act.

PAR. 11. Subsequent to the effective date of the Wool Products Labeling Act of 1939 and more especially since July, 1961, respondents have introduced into commerce, sold, transported, distributed, delivered for shipment, and offered for sale in commerce, wool products, as "commerce" and "wool products" are defined in said Act.

PAR. 12. Certain of said wool products were misbranded by respondents in that they were not stamped, tagged or labeled with any of the information required under the provisions of Section 4(a) (2) of the Wool Products Labeling Act of 1939 and in the manner and form as prescribed by the Rules and Regulations promulgated under said Act.

Among such misbranded wool products, but not limited thereto, were bolts of fabric with labels which failed:

1. To disclose the true generic names of the fibers present.
2. To disclose the percentage of such fibers.
3. To disclose the name, or other identification issued and registered by the Commission, of the manufacturer of the product or one or more persons subject to Section 3 of the said Act, with respect to such product.

PAR. 13. Certain of said wool products were misbranded in violation of the Wool Products Labeling Act in that they were not labeled in accordance with the Rules and Regulations promulgated thereunder in the following respect:

Information required under Section 4(a) (2) of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder was set out in handwriting on labels, in violation of Rule 10(a) of the aforesaid Rules and Regulations.

PAR. 14. The acts and practices of the respondents as set forth in paragraphs 11, 12 and 13, were and are in violation of the Wool Products Labeling Act of 1939 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.

Decision and Order

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, the Textile Fiber Products Identification Act, and the Wool Products Labeling Act of 1939, 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. Respondent, The Fabric Shop, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Kentucky, with its office and principal place of business located at 218 South Fourth Street, in the city of Louisville, Commonwealth of Kentucky.

Respondents Julius Lazar and Werner Herz 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 The Fabric Shop, Inc., a corporation, and its officers, and Julius Lazar, and Werner Herz, 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:

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. Falsely or deceptively stamping, tagging, labeling, invoicing, advertising, or otherwise identifying such products by representing either directly or by implication, through the use of such terms as "Linen Weave" or any other such terms, that any fibers are present in a textile fiber product when such is not the case.

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

4. Setting forth on labels affixed to textile fiber products information required under Section 4(b) of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder in handwriting.

5. Using a fiber trademark on labels affixed to such textile fiber products without the generic name of the fiber appearing on such label.

6. Using a generic name or fiber trademark on any label whether required or nonrequired, without making a full and complete fiber content disclosure in accordance with the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder the first time such generic name or fiber trademark appears on the label.

B. Falsely and deceptively advertising textile fiber products by:

1. Making any representations, by disclosure or by implication, as to 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

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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.

2. Using any name, word, depiction, descriptive matter, or other symbol, which connotes or signifies a fur-bearing animal, unless such products or parts thereof in connection with which such name, word, depiction, descriptive matter or other symbol is used, are furs or fur products within the meaning of the Fur Products Labeling Act, provided, however, that where a textile fiber product contains the hair or fiber of a fur-bearing animal, the name of such animal, in conjunction with the word "fiber", "hair", or "blend", may be used.

3. Using a fiber trademark in advertising textile fiber products without a full disclosure of the required fiber content information in at least one instance in the said advertisement.

4. Using a fiber trademark in advertising textile fiber products containing more than one fiber without such fiber trademark appearing in the required fiber content information in immediate proximity and conjunction with the generic name of the fiber in plainly legible type or lettering of equal size and conspicuousness.

5. Using a fiber trademark in advertising textile fiber products containing only one fiber without such fiber trademark appearing at least once in the advertisement, in immediate proximity and conjunction with the generic name of the fiber, in plainly legible and conspicuous type.

6. Using a generic name of a fiber in advertising textile fiber products in such a manner as to be false, deceptive or misleading as to fiber content or to indicate, directly or indirectly, that such textile fiber products are composed wholly or in part of such fiber when such is not the case.

7. Using nonrequired information and representations in advertising textile fiber products in such a manner as to be false, deceptive or misleading as to the fiber content of the textile fiber products or so as to interfere with, minimize or detract from required information.

It is further ordered, That respondents The Fabric Shop, Inc., a corporation and its officers, and Julius Lazar, and Werner Herz, individually and as officers of said corporation, and respondents' repre-

sentatives, agents and employees, directly or through any corporate or other device do forthwith cease and desist from removing, or causing or participating in the removal of the stamp, tag, label, or other identification required to be affixed to any textile fiber product, after such textile fiber product has been shipped in commerce, and prior to the time such textile fiber product is sold and delivered to the ultimate consumer.

It is further ordered, That respondents The Fabric Shop, Inc., a corporation, and its officers, and Julius Lazar, and Werner Herz, 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 into commerce, or offering for sale, sale, transportation, distribution or delivery for shipment in commerce of any wool product, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

A. Failing to securely affix to or place on each such product a stamp, tag, label or other means of identification showing in a clear and conspicuous manner, each element of information required to be disclosed by Section 4(a)(2) of the Wool Products Labeling Act of 1939.

B. Setting forth on labels affixed to wool products information required under Section 4(a)(2) of the Wool Products Labeling Act and the Rules and Regulations promulgated thereunder in handwriting.

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

CLELAND SIMPSON COMPANY TRADING AS GLOBE
STORE ET AL.

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