Complaint

IN THE MATTER OF

ABBOT 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 C-264. Complaint, Nov. 2, 1962—Decision, Nov. 2, 1962

Consent order requiring New York City converters and jobbers of textile fabrics to cease violating the Textile Fiber Products Identification Act by labeling as "65% rayon, 35% silk", fabrics which contained substantially less than 35% silk, and failing to show on labels on imported products the true percentage of fibers by weight and the name of the foreign country of origin; and to cease representing themselves falsely as manufacturers by use of the word "Mills" in their corporate name, when in fact they either bought fabrics already finished or paid independent contractors to manufacture or finish raw materials or uncompleted products.

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 Abbot Mills, Inc., a corporation, and Edward H. Rothstein, James Olkein, and Arthur L. Schwartz, 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 Abbot Mills, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

Individual respondents Edward H. Rothstein, James Olkein, and Arthur L. Schwartz are officers of the corporate respondent and formulate, direct and control the acts, practices and policies of the corporate respondent, including the acts and practices complained of herein.

Respondents are converters and jobbers of textile fabrics with their office and principal place of business located at 1412 Broadway, New York, N.Y.

PAR. 2. Subsequent to the effective date of the Textile Fiber Products Identification Act on March 3, 1960, respondents have 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 proucts, 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 the constituent fibers contained therein.

Among such textile fiber products, but not limited thereto, were fabrics labeled and invoiced by respondents as "65% rayon, 35% silk", whereas, in truth and in fact, such fabrics contained substantially less silk than represented.

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 as prescribed by the Rules and Regulations promulgated under said Act.

Among such misbranded textile fiber products, but not limited thereto, were fabrics with labels which failed:

(a) To show the true percentage of the fibers present by weight.

(b) To show the name of the country from which such textile fiber products were imported.

PAR. 5. 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 and deceptive acts and practices and unfair methods of competition in commerce, within the intent and meaning of the Federal Trade Commission Act.

PAR. 6. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their products, including

textile fabrics, when sold, to be shipped from their place of business in the State of New York to purchasers thereof in various other states of the United States and maintain, and at all times mentioned herein have maintained a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 7. In the course and conduct of their business in soliciting the sale of and in selling textile fabrics, respondents do business under the name Abbot Mills, Inc., and use said name on letterheads, invoices, labels and tags, and in various advertisements of their products.

PAR. 8. Through the use of the word "Mills" as part of respondents' corporate name, respondents represent that they own or operate mills or factories in which the textile products sold by them are manufactured.

PAR. 9. In truth and in fact respondents do not own, operate or control the mills or factories where the textile fabrics sold by them are manufactured, but in some instances, buy finished fabrics from others, and in other instances, purchase raw materials or unfinished fabrics from others and pay independent contractors to manufacture or finish such fabrics. The aforesaid representations are therefore false, misleading and deceptive.

PAR. 10. There is a preference on the part of many dealers to buy products, including textile fabrics, directly from factories or mills, believing that by doing so lower prices and other advantages thereby accrue to them.

PAR. 11. In the conduct of their business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of textile products of the same general kind and nature as those sold by respondents.

PAR. 12. 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 dealers and other purchasers into the erroneous and mistaken belief that said statements and representations were, and are, true, and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 13. The aforesaid acts and practices of respondents as alleged in paragraphs 6 through 12 were, and are, to the prejudice and injury of the public and of respondents' competitors, and constituted, and now constitute unfair methods of competition and unfair and deceptive acts and practices in commerce in violation of Section 5(a)(1) 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 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 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, Abbot Mills, 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 1412 Broadway, in the city of New York, State of New York.

Respondents Edward H. Rothstein, James Olkein, and Arthur L. Schwartz 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 Abbot Mills, Inc., a corporation, and its officers, and Edward H. Rothstein, James Olkein, and Arthur L. Schwartz, 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 constitutent fibers contained therein.

2. Failing to affix labels to such products, or when permitted by Section 3(d)(5) of the Act to invoice such products in the manner provided by law, showing each element of information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act.

It is further ordered, That respondents Abbot Mills, Inc., a corporation, and its officers, and Edward H. Rothstein, James Olkein, and Arthur L. Schwartz, 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 textile fabrics or any other textile products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from directly or indirectly, using the word "Mills", or any other word or term of similar import or meaning, in or as a part of respondents' corporate or trade name, or representing in any other manner that respondents perform the functions of a mill or otherwise manufacture the textile fabrics or other textile products sold by them, unless and until respondents own and operate, or directly and absolutely control the mill wherein said textile fabrics or other textile products are manufactured.

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

BAIN'S, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL TRADE COMMISSION AND THE FUR PRODUCTS LABELING ACTS

Docket C-265. Complaint, Nov. 2, 1962—Decision, Nov. 2, 1962

Consent order requiring Los Angeles furriers to cease violating the Fur Products Labeling Act by failing to show on invoices of fur products the true animal name of furs and the country of origin of imported furs and to disclose when fur was artificially colored; failing, on invoices, to use the term "Dyed Broadtail-processed Lamb" and on invoices and newspaper advertising to use the word "natural" where required; and failing to comply with other invoicing requirements and to maintain adequate records as a basis for pricing claims.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act and by virtue of the authority vested in it by said Acts, the Federal Trade Commission having reason to believe that Bain's, Inc., a corporation, and its officers, and Charles Bain, Sonny Bain, Mac Rosen and Jack E. Slote, 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 Fur Products Labeling 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 Bain's, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Nevada.

Individual respondents Charles Bain, Sonny Bain, Mac Rosen, and Jack E. Slote are officers of the corporate respondent and formulate, direct and control the acts, practices and policies of the corporate respondent, including those hereinafter set forth.

Respondents are retailers of fur products with stores located in Las Vegas, Nev., and Los Angeles, Calif., and have their principal office at 1108 South La Cienega Boulevard, Los Angeles, Calif.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondents have been and are now engaged in the introduction into commerce and in the sale, advertising, and offering for sale, in commerce, and in the transportation and distribution, in commerce of fur products; and have sold, advertised,