

GEOTMIDE INDUSTRIAL CORP. 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-305. Complaint, Jan. 25, 1963—Decision, Jan. 25, 1963

Consent order requiring a New York City distributor of sleeping bags to cease using fictitious price tags and using the expression "cut size" followed by

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certain printed figures such as 36 x 82 in advertising and labeling its product and thereby placing in the hands of others means for misleading the public as to the regular prices and the finished sizes of the bags; and to cease violating the Textile Fiber Products Identification Act by labeling the filling of the sleeping bags falsely as "all acetate" and by failing to disclose on labels the true generic names and percentages of fibers present.

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 Geotrade Industrial Corp., a corporation and Curtis T. Ettinger and Edward V. Nunes, individually and as officers of said corporation, and Leo G. Nunes, an individual, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations 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 Geotrade Industrial Corp. is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 141 East 44th Street, in the city of New York, State of New York.

Respondents Curtis T. Ettinger and Edward V. Nunes are officers of the corporate respondent. Respondent Leo G. Nunes is an individual and owner of a substantial amount of stock in the corporate respondent. They formulate, direct and control the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of sleeping bags and other products to distributors and retailers for resale to the public.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said products, when sold, to be shipped from their place of business in the State of New York to purchasers thereof located 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. 4. In the course and conduct of their business and for the purpose of inducing the purchase of their sleeping bags, respondents have engaged in the practice of using fictitious prices in connection there-

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with by attaching or causing to be attached thereto, tags or labels upon which certain amounts were printed, thereby representing, directly or by implication, that said amounts were the usual and customary retail prices of said bags wherever sold.

In truth and in fact, the amounts stated on said tags or labels were not the prices at which the bags referred to were usually and customarily sold at retail but were in excess of the retail price or prices at which the bags were generally sold in the trade area or areas where offered. The aforesaid representations were therefore, false, misleading and deceptive.

PAR. 5. Respondents, in connection with the sale of their sleeping bags, engaged in the practice of using the expression "cut size" followed by certain printed figures such as 36 x 82 on labels sewn on various of their bags or on tags attached thereto, and also in their advertising of said bags.

In truth and in fact, the actual sizes of the finished bags usually were substantially less than the sizes set out on the labels and tags and as advertised. Moreover, the term "cut size", when used in the aforesaid manner, was and is confusing and tends to indicate the sizes following such description were and are the actual sizes of the finished bags. The aforesaid representations were therefore, false, misleading and deceptive.

PAR. 6. By the aforesaid practices, respondents place in the hands of others means and instrumentalities by and through which they may mislead the public as to the regular prices of said bags and also as to the finished sizes.

PAR. 7. In the course and conduct of their business, and at all times mentioned herein, respondents have been in substantial competition, in commerce with corporations, firms and individuals in the sale of sleeping bags of the same general kind and nature as those sold by respondents.

PAR. 8. 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 members of the purchasing public 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. 9. 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, 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, 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. 10. 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 thereunder, in that they were falsely and deceptively stamped, tagged, labeled, invoiced, advertised, or otherwise identified as to the name or the amount of the constituent fibers contained therein.

Among such misbranded textile fiber products, but not limited thereto, were sleeping bags with labels which set forth the fiber content of the filling of the aforesaid sleeping bags as "all acetate" when in truth and in fact the filling of such products contained substantially less acetate than represented.

PAR. 11. Certain of said textile fiber products were further misbranded by respondents in that they were not stamped, tagged, labeled or otherwise identified 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 under said Act.

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

1. To disclose the true generic names of the fibers present; and
2. To disclose the percentage of such fibers.

PAR. 12. 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 in 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 sleeping bags which were falsely and deceptively advertised by means of catalogues and advertising circulars distributed by respondents throughout the United States in that the true generic names of the fibers present in such products were not set forth.

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PAR. 13. 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 sleeping bags, which were falsely and deceptively advertised by the means of catalogues and advertising circulars distributed by respondents throughout the United States, in the following respects:

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

B. Fiber trademarks were used in advertising textile fiber products, namely sleeping bags, containing more than one fiber without such fiber trademarks 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 in equal size and conspicuousness, in violation of Rule 41(b) of the aforesaid Rules and Regulations.

C. Textile fiber products were advertised in such a manner as to require disclosure of the information required by the Act and Regulations without all parts of the required information being stated in immediate conjunction with each other in legible and conspicuous type or lettering of equal size and prominence, in violation of Rule 42(a) of the aforesaid Rules and Regulations.

PAR. 14. The acts and practices of the respondents, as set forth in Paragraphs 9 to 13 inclusive, were and are in violation of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder, and all of the aforesaid acts and practices 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

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 Geotrade Industrial Corp. 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 141 East 44th Street, in the city of New York, State of New York.

Respondents Curtis T. Ettinger and Edward V. Nunes are officers of said corporation and their address is the same as that of said corporation.

Leo G. Nunes is an individual and owner of a substantial amount of stock in the corporate respondent and his 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

I. *It is ordered*, That respondent Geotrade Industrial Corp., a corporation, and its officers, and respondents Curtis T. Ettinger, and Edward V. Nunes, individually and as officers of said corporation, and Leo G. Nunes, as an individual, 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 sleeping bags or other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Advertising, labeling, representing in a catalog or otherwise representing the "cut size" or dimensions of material used in their construction, unless such representation is accompanied by a description of the finished or actual size, with the latter description being given at least equal prominence;

2. Misrepresenting the size of such products on labels or in any other manner;

3. Representing, directly or by implication, by means of pre-ticketing or by stating in a catalog, or in any other manner, that any amount is the usual and regular retail price of merchandise

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when such amount is in excess of the price at which said merchandise is usually and regularly sold at retail in the trade area or areas where the representations are made;

4. Furnishing to others any means or instrumentality by or through which the public may be misled as to the usual and regular retail price of respondents' merchandise;

5. Putting any plan into operation through the use of which retailers or others may misrepresent the usual and regular retail price of merchandise.

II. *It is further ordered*, That respondents 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 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 the constituent fibers contained therein.

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

B. Falsely and deceptively advertising textile fiber products by:

1. Making any representation, by disclosure or by implication, as to the fiber contents 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 disclosed on the stamp, tag, label, or other means of identification under Sections 4(b)(1) and (2) of the Textile Fiber Products Identification Act is contained in said

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advertisement, except that the percentages of the fibers present in the textile fiber product need not be stated.

2. Using a fiber trademark in advertisements without a full disclosure of the required fiber content information in at least one instance in the said advertisement.

3. 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.

4. Advertising any textile fiber in such manner as to require disclosure of the information required by the Textile Fiber Products Identification Act and the Rules and Regulations thereunder without stating all parts of the required information in immediate conjunction with each other in legible and conspicuous type or lettering of equal size and prominence.

III. *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

ALIX OF MIAMI, INC., ET AL.