

METERS DEVELOPMENT CORPORATION TRADING AS  
FASHION FROCKS, INC., ET AL.

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL TRADE  
COMMISSION AND THE TEXTILE FIBER PRODUCTS IDENTIFICATION ACT

*Docket 8536. Complaint, Oct. 11, 1962—Decision, Apr. 25, 1963*

Order requiring a Cincinnati retail mail-order business to cease violating the  
Textile Fiber Products Identification Act by falsely labeling textile fiber

## Complaint

62 F.T.C.

products as to fiber content and by implying falsely on labels and on "style cards"—by use of such terms as "silkura", "linen weave", and otherwise—that certain fibers were present in the product; by failing to disclose on labels the true generic name of fibers present and the percentage thereof, and the name of the manufacturer, etc.; by advertising which used terms connoting a fur-bearing animal and which used fiber trademarks improperly; by failing in other respects to comply with labeling and advertising requirements; and by using the word "free" and representing products as guaranteed without required qualification.

## 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 Meyers Development Corporation, a corporation, formerly Fashion Frocks, Inc., now trading as Fashion Frocks, Inc., and Philip M. Meyers, Sidney Meyers, Charles H. Jennings, Joseph A. Segal, Arthur L. Ehrmantrout and Ferd J. Schott, 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 Meyers Development Corporation, formerly Fashion Frocks, Inc., now trading as Fashion Frocks, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio.

Respondents Philip M. Meyers, Sidney Meyers, Charles H. Jennings, Joseph A. Segal, Arthur L. Ehrmantrout and Ferd J. Schott, are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth.

The respondents are engaged in a retail mail-order business with their principal office and place of business located at 205 West Fourth Street, in the city of Cincinnati, State of Ohio.

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 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 textile fiber products with labels which:

1. Set forth the fiber content as 92% rayon and 8% acetate, whereas, in truth and in fact, said product contained a substantially different amount of rayon and acetate.

2. Contained terms which represented, either directly or by implication, certain fibers as present in the said product when such was not the case.

Among such terms, but not limited thereto, were the terms "silkura", "Linen-weave", "cashmere", "silky", "silk-like", "angora-like", "wool-like" and "worstray".

Also among such misbranded textile fiber products, but not limited thereto, were textile fiber products which were falsely and deceptively advertised by means of "style cards" and direct mail circulars distributed by respondents throughout the United States, in the following respects:

1. Certain of said advertisements contained terms which represented, either directly or by implication, certain fibers as present in the said product when such was not the case.

Among such terms, but not limited thereto, were the terms "silkura" and "linen-weave".

PAR. 4. 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 as prescribed by the Rules and Regulations promulgated under said Acts.

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

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

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. 5. Certain of said textile fiber products were misbranded 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. 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.

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

C. Words, symbols and depictions which constitute or imply the name or designation of fibers were used on labels attached to textile fiber products when such fibers were not present in the aforesaid textile fiber products, in violation of Rule 18 of the aforesaid Rules and Regulations.

D. Samples, swatches and specimens of textile fiber products subject to the aforesaid Act, which were used to promote or effect sales of such textile fiber products, were not labeled to show their respective fiber content and other information required by Section 4(b) of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder, in violation of Rule 21(a) of the aforesaid Rules and Regulations.

PAR. 6. 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 articles of wearing apparel which were falsely and deceptively advertised by means of "style cards" and direct mail circulars, distributed by respondents throughout the United States in that the true generic names of the fibers in such articles were not set forth.

PAR. 7. Certain of said textile fiber products were falsely and deceptively advertised by means of labels affixed to such textile fiber products in that the name of a fur-bearing animal, including among

others Mink, but not limited thereto, was used in the advertisement of such products when said products or parts thereof in connection with which the name of the fur-bearing animal was 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 animal in violation of Section 4(g) of the Textile Fiber Products Identification Act and Rule 9 of the Rules and Regulations promulgated thereunder.

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 by means of "style cards" and direct mail circulars distributed by respondents throughout the United States, in the following respects:

A. A fiber trademark was used in advertising textile fiber products, namely ladies' dresses, 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 advertisement, in violation of Rule 41(a) of the aforesaid Rules and Regulations.

B. A fiber trademark was used in advertising textile fiber products, namely ladies' dresses, containing more than one fiber and such fiber trademark did not appear 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, in violation of Rule 41(b) of the aforesaid Rules and Regulations.

C. A fiber trademark was used in advertising textile fiber products, namely ladies' dresses, containing only one fiber and such fiber trademark did not appear, at least once in the said advertisement, in immediate proximity and conjunction with the generic name of the fiber, 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 ladies' dresses, 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 product and were set forth and used so as to interfere with, minimize and detract 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 ladies' dresses, advertised as: "Silkura, 70% Rayon 30% Acetate in a silky nub linen weave" thus representing, directly or by implication, that the said products contained silk when such was not the case.

PAR. 9. 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.

PAR. 10. In the course and conduct of their business, respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of merchandise, namely ladies' dresses, men's clothing, and other wearing apparel to the public.

PAR. 11. 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 Ohio 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. 12. In the course and conduct of their business respondents employ sales representatives who canvass, solicit and sell their products to members of the purchasing public in the various States of the United States. Respondents furnish said sales representatives with a "sales portfolio" containing information and supplies for their use in promoting the sales of respondents' products and in submitting orders to respondents' home office, among which are display cards designated as style cards with fabric swatches illustrating respondents' products, a stock list, an order book, return envelopes, tape measure, booklet of instructions on how to submit orders, appointment post cards and business cards.

PAR. 13. In the course and conduct of their business, and as an integral part of their program in promoting the sale of, and selling,

1223

## Complaint

their products, respondents have been, and are, engaged in the practice of soliciting persons to sell their merchandise, through and by means of advertisements in magazines of national circulation and direct mail circulars wherein the offer of a free dress is initially made. Typical but not all inclusive of statements in said advertisements are the following:

maybe I'm crazy! \* \* \* But, I'm going to send you an authorization to get absolutely free any ONE of the new Fashion Frocks styles of your selection, *in your own size and in the color of your choice.*

\* \* \*  
I want you to see with your own eyes, the almost unbelievable beauty of our styling, of our fabrics, of our workmanship. That's why I want you to get one of the styles from our new line, in the size and color of your choice, ABSOLUTELY FREE on my "crazy" offer. I just know that will be a good investment for us to make. Just mail the attached reservation card \* \* \*

YOU DON'T SOUND CRAZY TO ME . .

Dear Mr. Burke:—I'm taking you at your word! Send me at once the Fashion Frocks Style presentation \* \* \* and with it an authorization to select any style, any size, any color, absolutely FREE per your "crazy" offer.

MY NAME \_\_\_\_\_ AGE \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ ZONE \_\_\_\_\_ STATE \_\_\_\_\_

YOUR STYLE PRESENTATION is reserved for you under  
the number at right →  
PLEASE BE SURE TO USE THIS CARD

[Picture of woman wearing dress]

The dress she is wearing and showing is one of the lovely styles we supplied to her, and she is enjoying this easy way of earning up to \$23 weekly in spare time \* \* \*

## FEMALE HELP WANTED

\$23.00 weekly for wearing lovely dresses supplied to you by us. Just show Fashion Frocks to friends in spare time. No investment, canvassing or experience necessary.

PAR. 14. The foregoing statements appearing in advertisements, which represent directly or by implication, that a dress or dresses will be given free of charge, do not clearly and conspicuously set forth or

explain in the initial advertisement certain conditions precedent to the receipt and retention of the "free" merchandise and are therefore, false, misleading and deceptive.

PAR. 15. In the course and conduct of their business as aforesaid, the respondents have made many representations to the buying public respecting the quality, construction, and guarantee of the aforesaid merchandise, namely men's slacks. Said representations have been made in advertisements contained in "style cards" and "sales portfolios" which are distributed in commerce and from which orders for said merchandise were made.

Illustrative and typical of such representations, but not all inclusive, is the following:

All Styles  
UNCONDITIONALLY  
GUARANTEED

FOR ONE YEAR'S NORMAL WEAR!

Proven fabrics, engineered construction features, quality findings, and careful inspection make this guarantee possible.

PAR. 16. Through the use of the statements and representations set forth above and others similar thereto but not specifically set out herein, respondents have represented, directly or indirectly, to a substantial portion of the purchasing public that such merchandise was unconditionally guaranteed for one year's normal wear.

PAR. 17. In truth and in fact said merchandise was not in fact unconditionally guaranteed for a period of one year because the terms and conditions thereof or the manner in which performance thereunder would be made were not set forth in connection therewith. The foregoing and similar statements made by respondents as hereinabove stated were therefore false, misleading and deceptive.

PAR. 18. In the conduct of their business, at all times mentioned therein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the advertising, offering for sale, sale and distribution of merchandise, namely ladies' dresses, men's clothing and other wearing apparel of the same general kind and nature as those sold by respondents.

PAR. 19. The use by the respondents of the aforesaid false, misleading, and deceptive statements, representations and practices, has had, and now has, a 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. 20. The aforesaid acts and practices of respondents, as herein

1223

## Initial Decision

alleged, were, and are, all to the prejudice and injury of the public and of the 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.

*Mr. Eugene H. Strayhorn and Mr. Edward B. Finch* supporting the complaint.

*Mr. Burton Perlman of Paxton & Seasongood, of Cincinnati, Ohio,* for respondents.

INITIAL DECISION BY WALTER K. BENNETT, HEARING EXAMINER\*

MARCH 13, 1963

On October 11, 1962, the Federal Trade Commission issued its complaint in this proceeding charging the respondents with violation of the Textile Fiber Products Identification Act and the Federal Trade Commission Act. A true copy of such complaint was duly served on the respondents.

A prehearing conference was held December 13, 1962, and the results thereof were set forth in Prehearing Order No. 1 dated December 17, 1962, and amended December 28, 1962. At the request of both parties, time was thereafter extended to March 5, 1963, within which the parties might enter into a dispositive stipulation.

On March 5, 1963, the parties executed a stipulation of Facts and Joint Proposed Findings, Conclusions and Order which the hearing examiner has made the record in this case by order filed herewith.

On the basis of said stipulation, the prehearing conference heretofore had herein, including the exhibits there identified, and the response of respondents filed December 26, 1962, the hearing examiner makes the following findings of fact, conclusions and order.

## FINDINGS OF FACT

1. Respondent Meyers Development Corporation, formerly Fashion Frocks, Inc., now trading as Fashion Frocks, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio.

2. Respondents Philip M. Meyers, Sidney Meyers, Charles H. Jennings, Arthur L. Ehrmantraut, erroneously named in the complaint as Arthur L. Ehrmantrout, and Ferd J. Schott, are officers of the

\*Respondent Arthur L. Ehrmantraut erroneously named in the complaint as Arthur L. Ehrmantrout.

corporate respondent. They formulate, direct and control the policies, acts and practices of said corporation.

3. Respondent Joseph A. Segal is an officer of said corporate respondent but does not participate in the formulation, direction or control of the policies, acts and practices of the corporate respondent, including the policies, acts and practices complained of.

4. 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 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.

5. 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.

6. Among such misbranded textile fiber products, were textile fiber products with labels which:

A. Set forth the fiber content as 92% rayon and 8% acetate, whereas, in truth and in fact, said product contained a substantially different amount of rayon and acetate.

B. Contained terms which represented, either directly or by implication, certain fibers as present in the said product when such was not the case.

7. Also among such misbranded textile fiber products, but not limited thereto, were textile fiber products which were falsely and deceptively advertised by means of "style cards" and direct mail circulars distributed by respondents throughout the United States, in the following respects: Certain of said advertisements contained terms which represented, either directly or by implication, certain fibers as present in the said product when such was not the case.

8. 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 as prescribed by the Rules and Regulations promulgated under said Acts.

9. Certain of said textile fiber products were misbranded in violation of the Textile Fiber Products Identification Act in that they were not labeled in accordance with the Rules and Regulations promulgated thereunder.

A. 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.

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

C. Words, symbols and depictions which constitute or imply the name or designation of fibers were used on labels attached to textile fiber products when such fibers were not present in the aforesaid textile fiber products, in violation of Rule 18 of the aforesaid Rules and Regulations.

D. Samples, swatches and specimens of textile fiber products subject to the aforesaid Act, which were used to promote or effect sales of such textile fiber products, were not labeled to show their respective fiber content and other information required by Section 4(b) of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder, in violation of Rule 21(a) of the aforesaid Rules and Regulations.

10. Certain of said textile fiber products were falsely and deceptively advertised in that respondents in making disclosures or implications 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.

11. Certain of said textile fiber products were falsely and deceptively advertised by means of labels affixed to such textile fiber products in that the name of a fur-bearing animal, including among others Mink, was used in the advertisement of such products when said products or parts thereof in connection with which the name of the fur-bearing animal was 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 animal in violation of Section 4(g)

of the Textile Fiber Products Identification Act and Rule 9 of the Rules and Regulations promulgated thereunder.

12. 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.

13. Among such textile fiber products, were textile fiber products which were falsely and deceptively advertised by means of "style cards" and direct mail circulars distributed by respondents throughout the United States.

A. A fiber trademark was used in advertising textile fiber products, namely ladies' dresses, 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 advertisement, in violation of Rule 41(a) of the aforesaid Rules and Regulations.

B. A fiber trademark was used in advertising textile fiber products, namely ladies' dresses, containing more than one fiber and such fiber trademark did not appear 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, in violation of Rule 41(b) of the aforesaid Rules and Regulations.

C. A fiber trademark was used in advertising textile fiber products, namely ladies' dresses, containing only one fiber and such fiber trademark did not appear, at least once in the said advertisement, in immediate proximity and conjunction with the generic name of the fiber, 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.

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 product and were set forth and used so as to interfere with, minimize and detract from the required information, in violation of Rule 42(b) of the aforesaid Rules and Regulations.

14. In the course and conduct of their business, respondents are now, and for some time last past have been engaged in the advertising, offering for sale, sale and distribution of merchandise, namely ladies' dresses, men's clothing, and other wearing apparel to the public.

15. 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 Ohio 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.

16. In the course and conduct of their business respondents employ sales representatives who canvass, solicit and sell their products to members of the purchasing public in the various States of the United States. Respondents furnish said sales representatives with a "sales portfolio" containing information and supplies for their use in promoting the sales of respondents' products and in submitting orders to respondents' home office, among which are display cards designated as style cards with fabric swatches illustrating respondents' products, a stock list, an order book, return envelopes, tape measure, booklet of instructions on how to submit orders, appointment post cards and business cards.

17. In the course and conduct of their business, and as an integral part of their program in promoting the sale of, and selling, their products, respondents have been, and are, engaged in the practice of soliciting persons to sell their merchandise, through and by means of advertisements in magazines of national circulation and direct mail circulars wherein the offer of a free dress is initially made.

18. The statements appearing in advertisements, Commission Exhibits 60-72, which represent directly or by implication, that a dress or dresses will be given free of charge, do not clearly and conspicuously set forth or explain in the initial advertisement certain conditions precedent to the receipt and retention of the "free" merchandise and are therefore, false, misleading and deceptive.

19. In the course and conduct of their business as aforesaid, the respondents have made many representations to the buying public respecting the quality, construction, and guarantee of the aforesaid merchandise, namely men's slacks. Said representations have been made in advertisements contained in "style cards" and "sales portfolios" which are distributed in commerce and from which orders for said merchandise were made.

20. Through the use of the statements and representations set forth above and others similar thereto but not specifically set out herein, respondents have represented, directly or indirectly, to a substantial portion of the purchasing public that such merchandise was unconditionally guaranteed for one year's normal wear.

21. In truth and in fact said merchandise was not in fact uncondi-

tionally guaranteed for a period of one year because the terms and conditions thereof or the manner in which performance thereunder would be made were not set forth in connection therewith. The foregoing and similar statements made by respondents as hereinabove stated were therefore false, misleading and deceptive.

22. 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 advertising, offering for sale, sale and distribution of merchandise, namely ladies' dresses, men's clothing and other wearing apparel of the same general kind and nature as those sold by respondents.

23. The use by the respondents of the aforesaid false, misleading, and deceptive statements, representations and practices, has had, and now has, a 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.

#### CONCLUSIONS

1. 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.

2. The aforesaid acts and practices of respondents, as herein alleged, were, and are, all to the prejudice and injury of the public and of the 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.

3. The separation of *agreed* findings and *proposed* conclusions and order leaves the hearing examiner free in his discretion to modify the proposed order to conform with his judgment of the relief required by the facts agreed upon.

4. While underlying documents described in the stipulation relate to the improper use of specific terms which might be mistaken for a representation that other fibers than those present are included; mention of particular names and the use of the proviso in the order appear unnecessary and might lead to ambiguity. Hence, they are deleted.

5. The proviso with respect to sample cards in the proposed order also appears to be unnecessary and might lead to ambiguity. Hence, it is deleted.

6. The dispositive provisions with respect to the dismissal of the proceeding against Joseph A. Segal individually have been separated from the finding of fact and placed in the order which has also been amended to show that it binds Mr. Segal in his capacity as an official of respondent corporation.

#### ORDER

*It is ordered*, That respondents Meyers Development Corporation, a corporation, formerly Fashion Frocks, Inc., now trading as Fashion Frocks, Inc., and its officers, and Philip M. Meyers, Sidney Meyers, Charles H. Jennings, Arthur L. Ehrmantraut, erroneously named in the Complaint as Arthur L. Ehrmantrout, and Ferd J. Schott, individually and as officers of the 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, 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. Using a fiber trademark on labels affixed to such textile fiber products without the generic name of the fiber appearing on the said label.

5. 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 Act and Regulations the first time such generic name or fiber trademark appears on the label.

6. Using words, symbols, or depictions on labels attached to textile fiber products, which constitute or imply the name or designation of a fiber when such fiber is not present in the aforesaid product.

7. Failing to affix labels showing the respective fiber content and other required information to samples, swatches and specimens of textile fiber products subject to the aforesaid Act which are used to promote or effect sales of such textile fiber products.

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 Sections 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.

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 the names, words, depictions, descriptive matter or other symbols are 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 advertisements without a

full disclosure of the required 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 said advertising 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 Meyers Development Corporation, a corporation, formerly Fashion Frocks, Inc., now trading as Fashion Frocks, Inc., and its officers, and Philip M. Meyers, Sidney Meyers, Charles H. Jennings, Arthur L. Ehrmantraut, erroneously named in the Complaint as Arthur L. Ehrmantrout, and Ferd J. Schott, individually and as officers of said corporation, and Joseph A. Segal as an officer of said corporation but not individually and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of women's dresses and other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act do forthwith cease and desist from:

A. Using the term "free" or any other term of similar import or meaning, to designate, describe, or refer to wearing apparel, or other merchandise, furnished as compensation for services rendered, unless in close connection therewith all of the conditions, obligations and other prerequisites to the receipt and retention of said wearing apparel or other items of merchandise are clearly and conspicuously set forth.

## Complaint

62 F.T.C.

B. Representing, directly or by implication, that wearing apparel or other merchandise is guaranteed unless the nature and extent of such guaranty and the manner in which the guarantor will perform thereunder are clearly and conspicuously set forth.

*It is further ordered*, That this proceeding be, and it hereby is, dismissed against Joseph A. Segal in his individual capacity.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF  
COMPLIANCE

Pursuant to Section 4.19 of the Commission's Rules of Practice, effective June 1, 1962, the initial decision of the hearing examiner shall on the 25th day of April 1963, become the decision of the Commission; and, accordingly:

*It is 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 the order to cease and desist.

---