

by is, adopted as the decision of the Commission.

3. That the respondents, Magnaflo, Inc., a corporation, and Webster B. Harpman, an individual, 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 contained in the initial decision.

IN THE MATTER OF
AMERICAN TEXTILE COMPANY OF NEW ENGLAND, 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-636. Complaint, Dec. 27, 1963—Decision, Dec. 27, 1963

Consent order requiring Boston, Mass., sellers of upholstery fabrics to furniture manufacturers and upholstery shops, to cease violating the Textile Fiber Products Identification Act by using terms for their products which falsely represented the fiber content, such as "Silkora", and failing to use the correct generic name on labels and in advertising; labeling products misleadingly as "Nylock" and setting forth the fiber content on labels as "100% Nylon" when only the surface yarns were composed of 100% Nylon; failing to label samples and swatches with required information; removing labels or other identification prior to final sale; furnishing false guaranties that their textile fiber products were not misbranded or falsely invoiced; and failing in other respects to comply with requirements of the Act.

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 American Textile Company of New England, Inc., a corporation and Benjamin Weissman, Esther Weissman and Allen Weissman, individually and as officers of said corporation, 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 American Textile Company of New England, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Massachusetts.

Individual respondents Benjamin Weissman, Esther Weissman and Allen Weissman are officers of the corporate respondent and control, direct and formulate the acts, practices and policies of the corporate respondent. Respondents are engaged in the sale of upholstery fabrics for the outer covering of furniture to furniture manufacturers and upholstery shops. The office and principal place of business of all respondents is located at 1330 Centre Street, Newton Centre, Massachusetts, formerly doing business at 36 Canal Street, Boston, Massachusetts.

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 and 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 have caused to be transported, textile fiber products, which have been advertised and offered for sale in commerce; and have sold, offered for sale, advertised, delivered, transported and cause 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

Complaint

63 F.T.C.

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. 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 "Nylock" and "Silkora".

2. Set forth the fiber content as "100% Nylon" whereas in truth and in fact only the surface yarns of said product were composed of 100% Nylon.

PAR. 4. Certain of said textile fiber products were further misbranded by respondent 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 without labels and with labels which failed to show in words and figures plainly legible the correct generic name of the fibers present.

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 and generic names appeared on labels without a full and complete fiber content disclosure in accordance with the Act and Regulations being made the first time the generic name or fiber trademark appeared on the label, in violation of Rule 17(b) of the aforesaid Rules and Regulations.

- (b) A fiber trademark or generic name was used in non-required information on a label in such a manner as to be false, deceptive, and misleading as to fiber content and to indicate directly or indirectly that a textile fiber product was composed wholly or in part of a particular fiber when such was not the case, in violation of Rule 17(d) of the aforesaid Rules and Regulations.

- (c) Words, symbols, or other depictions constituting or implying the name or designation of a fiber which was not present in the product appeared on the label 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 fabrics which were falsely and deceptively advertised by means of price lists distributed by respondent throughout the United States in that the true generic names of the fibers in such fabric were not set forth.

PAR. 7. By means of the aforesaid advertisements and others of similar import and meaning not specifically referred to herein, respondents falsely and deceptively advertised textile fiber products in violation of Textile Fiber Products Identification Act in that said textile fiber products were not advertised in accordance with the Rules and Regulations promulgated thereunder in the following respects.

(a) Fiber trademarks were used in advertising textile fiber products containing more than one fiber, other than permissive ornamentation, and such fiber trademarks 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.

(b) All parts of the required information were not set forth 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.

(c) Non-required 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

Decision and Order

63 F.T.C.

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 upholstery fabrics, advertised as "Silkora" thus representing, directly or by implication, that the said products contained silk, when such was not the case.

PAR. 8. After certain textile fiber products were shipped in commerce respondents have removed or caused or participated in the removal of the stamp, tag, label or other identification required by the Textile Fiber Products Identification Act to be affixed to such 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.

PAR. 9. Respondents have furnished their customers with false guaranties that certain of the textile fiber products were not misbranded or falsely invoiced by falsely representing in writing that respondents had a continuing guaranty under the Textile Fiber Products Identification Act on file with the Federal Trade Commission, in violation of Rule 38(d) of the Rules and Regulations under said Act and Section 10(b) of such Act.

PAR. 10. The acts and practices of respondents as set forth here were in violation of the Textile Fiber Products Identification Act and the Rules and Regulations 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

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 American Textile Company of New England, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Massachusetts, with its office and principal place of business located at 1330 Centre Street, Newton Centre, Massachusetts, formerly doing business at 36 Canal Street, in the City of Boston, Commonwealth of Massachusetts.

Respondents Benjamin Weissman, Esther Weissman, and Allen Weissman 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 American Textile Company of New England, Inc., a corporation, and its officers and Benjamin Weissman, Esther Weissman and Allen Weissman, 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. Stamping, labeling, invoicing, advertising or otherwise identifying such products by representing, either directly

Decision and Order

63 F.T.C.

or by implication through the use of such terms as "Nylock" and "Silkora" or any other terms, that such products contain any fibers which are not present therein.

3. Failing to affix labels to such textile fiber products showing in a clear, legible and conspicuous manner each element of information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act.

4. Using a generic name or fiber trademark on any label whether required or non-required, 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 such label.

5. Using fiber trademarks or generic names on labels affixed to textile fiber products in such a manner as to be false, deceptive or misleading as to fiber content or so as to indicate directly or indirectly that any such textile fiber product is composed of wholly or in part of a particular fiber when such is not the case.

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 of 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 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 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 gen-

eric name of the fiber in plainly legible type or lettering of equal size and conspicuousness.

3. Failing to set forth all parts of the required information in advertisements of textile fiber products in immediate conjunction with each other in legible and conspicuous type or lettering of equal size and prominence.

4. Using non-required information and representations in any advertisement of any textile fiber product in such a manner as to be false, deceptive or misleading as to the fiber content of the textile fiber product or so as to interfere with, minimize or detract from required information.

C. Furnishing false guaranties that textile fiber products are not misbranded or falsely invoiced under the provisions of the Textile Fiber Products Identification Act.

It is further ordered, That respondents American Textile Company of New England, Inc., a corporation, and its officers and Benjamin Weissman, Esther Weissman, and Allen Weissman, individually and as officers of said corporation, and respondents' representatives, 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 by the Textile Fiber Products Identification Act to be on or 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 has been sold and delivered to the ultimate consumer.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the