

IN THE MATTER OF
JOYCETTE FABRICS CORP. ET AL.

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

Docket C-688. Complaint, Jan. 21, 1964—Decision, Jan. 21, 1964

Consent order requiring New York City converters and distributors of imported fabrics, to cease violating the Flammable Fabrics Act by importing or selling flammable fabrics in commerce, and falsely representing to customers that they had a continuing guaranty with the Federal Trade Commission to the effect that tests required under the Act showed certain fabrics not to be dangerously flammable; and requiring them to furnish to the Commission within five days a list of customers to whom flammable fabrics were shipped, along with a showing that such customers were notified of the questionable flammable nature of the fabrics; and further requiring them to cease violating the Textile Fiber Products Identification Act by failing to affix required labels to textile products imported or sold in commerce.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, the Flammable Fabrics 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 Joycette Fabrics Corp., a corporation, and Louis A. Levine and David Sherman, individually and as officers of said corporation, hereinafter referred to as the respondents, have violated the provisions of said Acts, and the Rules and Regulations promulgated under the Flammable Fabrics Act and 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 Joycette Fabrics Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. Respondents Louis A. Levine and David Sherman are president and treasurer, respectively, of Joycette

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Fabrics Corp., the corporate respondent. The individual respondents together with the Board of Directors of said corporation, participate in the formulation, direction and control of the policies, acts and practices of the said corporate respondent. All respondents have their offices and principal place of business located at 1450 Broadway, New York, New York.

The respondents are engaged in the conversion and sale of imported fabrics.

PAR. 2. Subsequent to July 1, 1954, the effective date of the Flammable Fabrics Act, respondents have sold and offered for sale, in commerce; have imported into the United States; and have introduced, delivered for introduction, transported, and caused to be transported, in commerce; and have transported and caused to be transported for the purpose of sale or delivery after sale, in commerce; as "commerce" is defined in the Flammable Fabrics Act, fabric as that term is defined therein, which fabric was, under Section 4 of the Flammable Fabrics Act, as amended, so highly flammable as to be dangerous when worn by individuals.

PAR. 3. Respondents, by falsely representing in writing that they have a continuing guaranty under the Flammable Fabrics Act on file with the Federal Trade Commission, have furnished their customers with a false guaranty with respect to certain of the fabrics, mentioned in Paragraph 2 hereof, to the effect that reasonable and representative tests made under the procedures provided in Section 4 of the Flammable Fabrics Act, as amended, and the Rules and Regulations promulgated thereunder, show that said fabrics are not, in the form delivered by respondents, so highly flammable under the provisions of the Flammable Fabrics Act as to be dangerous when worn by individuals. There was reason for respondents to believe that the fabrics covered by such guaranty might be introduced, sold, or transported in commerce in violation of Section 8(b) of the aforesaid Act and Rule 10(d) of the Rules and Regulations promulgated under such Act.

Said guaranty was false in that respondents did not have such a continuing guaranty on file with the Federal Trade Commission.

PAR. 4. The aforesaid acts and practices of respondents were and are in violation of the Flammable Fabrics Act and the Rules and Regulations promulgated thereunder, and as such constitute unfair methods of competition and unfair and deceptive acts and practices in commerce, within the intent and meaning of the Federal Trade Commission Act.

PAR. 5. 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 sale, 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 products" are defined in the Textile Fiber Products Identification Act.

PAR. 6. Certain of said textile fiber products were misbranded by respondents in that they were not stamped, tagged, labeled or otherwise identified with the information required under 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.

PAR. 7. The aforesaid acts and practices of respondents were and are in violation of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder, and as such constitute unfair methods of competition and unfair and deceptive acts and practices 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, the Flammable Fabrics 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 agree-

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ment, makes the following jurisdictional findings, and enters the following order:

1. Respondent Joycette Fabrics Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. Respondents Louis A. Levine and David Sherman are president and treasurer, respectively, of Joycette Fabrics Corp., the corporate respondent. The individual respondents together with the Board of Directors of said corporation, participate in the formulation, direction and control of the policies, acts and practices of the said corporate respondent. All respondents have their offices and principal place of business located at 1450 Broadway, New York, New York.

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 the respondent Joycette Fabrics Corp., a corporation, and its officers, and Louis A. Levine and David Sherman, 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:

1. (a) Importing into the United States; or

(b) Selling, offering for sale, introducing, delivering for introduction, transporting, or causing to be transported, in commerce, as "commerce" is defined in the Flammable Fabrics Act;

or

(c) Transporting or causing to be transported, for the purpose of sale or delivery after sale in commerce,

any fabric, which, under the provisions of Section 4 of the said Flammable Fabrics Act, as amended, is so highly flammable as to be dangerous when worn by individuals.

Provided, however, That nothing contained herein shall affect any rights afforded to the respondents by Section 11 of the Flammable Fabrics Act.

2. Furnishing to any person a guaranty with respect to any fabric which respondents, or any of them, have reason to believe may be introduced, sold or transported in commerce, which guaranty represents, contrary to fact, that reasonable and representative tests made under the procedures provided in Section 4 of the Flammable Fabrics Act, as amended, and the Rules and Regulations thereunder, show and will show that the fabric

covered by the guaranty, is not, in the form delivered or to be delivered by the guarantor, so highly flammable under the provisions of the Flammable Fabrics Act as to be dangerous when worn by individuals: *Provided, however,* That this prohibition shall not be applicable to a guaranty furnished on the basis of, and in reliance upon, a guaranty to the same effect received by respondents in good faith signed by and containing the name and address of the person by whom the fabric was manufactured or from whom it was received.

II. *It is further ordered,* That respondents Joycette Fabrics Corp., a corporation, and its officers, and Louis A. Levine and David Sherman, 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 in 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 misbranding textile fiber products by failing to affix labels to such products showing each element of information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act.

III. *It is further ordered,* That respondents hereinbefore named, furnish to the Federal Trade Commission within five (5) days after service of this order, a special report which:

(a) Contains a list of the names and addresses of all of the corporate respondents' customers to whom shipments were made, since July 1, 1963, of fabric Style AK 7331 and/or of any other fabric which under the provisions of Section 4 of the said Flammable Fabrics Act, as amended, is so highly flammable as to be dangerous when worn by individuals.

(b) Shows that respondents have notified, in writing the customers of the corporate respondent to whom any of the shipments referred to in subparagraph (a) above were made, as to

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the questionable flammable nature of the fabrics contained in such shipments.

(c) Contains copies of the aforesaid notification to each of the customers referred to in subparagraph (a) and copies of any and all responses to the aforesaid notification.

IV. *It is further ordered*, That respondents, hereinbefore named, shall forward to the Commission, within two(2) days after receipt thereof, copies of any and all responses to the notification required by Subparagraph (c) of Paragraph III above which are received by respondents after the due date of the aforesaid special report.

V. *It is further ordered*, That the respondents hereinbefore