

disclosed by Section 4(b) of the Textile Fiber Products Identification Act.

B. 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 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
SEABERG MILLS, INC., ET AL.

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

Docket C-723. Complaint, Mar. 16, 1964—Decision, Mar. 16, 1964

Consent order requiring converter-jobbers of textile fabrics in New York City, to cease using the word "Mills" as part of their corporate name unless qualified; to cease violating the Textile Fiber Products Identification Act by misbranding as "85% Celeperm and 15% Nylon", textile fiber products which contained substantially different amounts of acetate and nylon than as represented, failing to label and invoice fabrics with the required information including the generic names and percentage by weight of constituent fibers, and furnishing false guarantees that fabrics were not misbranded; and to cease violating the Flammable Fabrics Act by representing falsely that they had on file with the Commission a continuing guaranty that certain fabrics were not so highly flammable as to be dangerous when worn.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, the Textile Fiber Products Identification Act and the Flammable Fabrics Act and by virtue of the authority vested in it by said Acts, the Federal Trade Commission having reason to believe that Seaberg Mills, Inc., a corporation and George Greenberg and Norman Segal, 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 the Flammable Fabrics 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. Seaberg 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 George Greenberg and Norman Segal 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 fiber products, namely fabrics, with their office and principal place of business located at 39 West 37th Street, New York, New York.

PAR. 2. In the course and conduct of their business respondents are now and for sometime past have been engaged in the advertising, offering for sale, sale and distribution of textile products in commerce and now cause and for sometime past have caused their products 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 of said products in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 3. In the course and conduct of their business in soliciting the sale of and in selling textile products, respondent Seaberg Mills, Inc., and the individual respondents doing business under the name Seaberg Mills, Inc., have used said name on letterheads, invoices, labels and tags and in advertisements of their products.

PAR. 4. Through the use of the word "Mills" as part of the corporate name of Seaberg Mills, Inc., the aforesaid respondents represented that they own or operate mills or factories in which the textile products sold by them are manufactured.

PAR. 5. In truth and in fact the aforesaid respondents do not own, operate or control the mills or factories where the textile products sold by them are manufactured but buy the finished products from others. The aforesaid representations are therefore false, misleading and deceptive.

PAR. 6. There is a preference on the part of many dealers to buy products including textile products directly from factories or mills believing that by doing so lower prices and other advantages thereby accrue to them.

PAR. 7. In the conduct of their business at all times mentioned herein said respondents had been in substantial competition in commerce with corporations, firms and individuals in the sale of textile

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products of the same general kind and nature as those sold by respondents.

PAR. 8. The use by such 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. 9. The aforesaid acts and practices of respondents as alleged in Paragraphs Two through Eight 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.

PAR. 10. 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 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. 11. 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 invoices which set forth the fiber content as 85% Celeperm and 15% Nylon, whereas, in truth and in fact said products contained substantially different amounts of acetate and nylon.

PAR. 12. 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 Act.

Among such misbranded textile fiber products, but not limited thereto, were fabrics which were not labeled to show any of the information required to be disclosed under Section 4(b) of such Act and were not covered by invoices correctly disclosing the aforesaid information so as to entitle such products to the exemption from labeling provided by Section 3(d)(5) of such Act.

PAR. 13. The respondents have furnished false guaranties that their textile fiber products were not misbranded by falsely invoicing and writing on invoices that respondents had filed a continuing guaranty under the Textile Fiber Products Identification Act with the Federal Trade Commission, when such was not the fact, in violation of Section 10(b) of the Textile Fiber Products Identification Act and Rule 38(d) of the Rules and Regulations promulgated under said Act.

PAR. 14. 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 respect. The generic names and percentages by weight of the constituent fibers present in the textile fiber products, exclusive of permissive ornamentation, in amounts of more than five percentum were not in order of predominance by weight in violation of Rule 16(a) of the aforesaid Rules and Regulations.

PAR. 15. 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. 16. Respondents, subsequent to July 1, 1954, the effective date of the Flammable Fabrics Act, 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, fabrics as that term is defined therein.

PAR. 17. 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 Sixteen 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. 18. 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 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 Textile Fiber Products Identification Act, the Flammable Fabrics Act, and the Federal Trade Commission 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

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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, Seaberg 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 39 West 37th Street, in the city of New York, State of New York.

Respondents George Greenberg and Norman Segal 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 Seaberg Mills, Inc., a corporation, and its officers, and George Greenberg and Norman Segal, individually and as officers of said corporation, and their 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 in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from the use of the name "Seaberg Mills, Inc." unless and until there be used, the following language of qualification in the manner set out below:

1. As to letterheads, invoices, and labels: "Converters, Jobbers, and Distributors of Fabrics—Not Textile Manufacturers or Mill Owners" in type no smaller than $\frac{3}{4}$ the size of the type used in the trade name, and immediately under the trade name.

2. In all other printed matter, either the foregoing or in lieu thereof, preceded by an asterisk (*) or equivalent, the same qualification, at the foot of each sheet of printed matter upon which the trade name appears, said trade name being followed by an asterisk (*) or equivalent each time it appears in said printed matter, and said qualification being printed in type no smaller than $\frac{3}{4}$ the size of the type used in the trade name.

It is further ordered, That respondents Seaberg Mills, Inc., a corporation and their officers, George Greenberg and Norman Segal, 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. 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.

3. Failing to affix labels to such textile fiber products setting forth the generic names and percentages by weight of the constituent fibers present in the textile fiber product, exclusive of permissive ornamentation, in amounts of more than five percentum, in order of predominance by weight.

B. 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 Seaberg Mills, Inc., a corporation, and its officers, George Greenberg and Norman Segal, 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 sale or offering for sale, in

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commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce, or the transporting or causing to be transported for the purpose of sale or delivery after sale in commerce, of fabric, as "fabric" is defined in the Flammable Fabrics Act do forthwith cease and desist from 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 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.

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.
