

Complaint

IN THE MATTER OF

JACKSON'S/BYRONS ENTERPRISES, INC.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE TEXTILE FIBER
PRODUCTS IDENTIFICATION ACTS*Docket C-918. Complaint, July 16, 1965—Decision, July 16, 1965*

Consent order requiring a Miami, Fla., operator of a chain of retail department stores, to cease violating the Textile Fiber Products Identification Act by falsely labeling, invoicing, and advertising its textile fiber products.

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 Jackson's/Byrons Enterprises, Inc., a corporation, hereinafter referred to as the respondent, has 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 Jackson's/Byrons Enterprises, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida.

The respondent corporation with its office and principal place of business located at 29 N. W. Tenth Street, Miami, Florida, is engaged in the operation of a chain of retail department stores, offering a wide variety of popular to medium-priced clothing and other department store merchandise. Operations under the control of the respondent corporation are conducted through wholly owned subsidiaries which are individually incorporated in Florida and comprise eleven retail stores in the Greater Miami area. The same officers of the respondent corporation are similarly officers in the same capacities in the eleven subsidiaries.

PAR. 2. Subsequent to the effective date of the Textile Fiber Products Identification Act on March 3, 1960, respondent has been and is 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;

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and has 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 has 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. 3. Certain of said textile fiber products were misbranded by respondent 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 which were advertised in the Miami Herald, a newspaper published in Miami, Florida and distributed in interstate commerce. The said advertisement contains terms which represented, either directly or by implication, that certain fibers are present in the said product, when such was not the case.

Among such terms, but not limited thereto, was the term "Silk Look" and the term "Look and Feel of Imported Silk"; the advertisement also described the product as 100% Estron. In truth, and in fact, Estron is the trade name of the Tennessee Eastman Company for the fiber known as Acetate and the said textile fiber product did not have any silk in it nor was it imported.

PAR. 4. Certain of said textile fiber products were falsely and deceptively advertised, in that the respondent, 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 in the Miami Herald, a newspaper published in Miami, Florida, and distributed in interstate commerce, in that the trade name of the fibers was used in lieu of the true generic name of the fibers in such articles.

PAR. 5. 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 in the Miami Herald, a newspaper published in Miami, Florida, and distributed in interstate commerce, in the following respects:

a. A fiber trademark was used in advertising textile fiber products, namely ladies' girdles, 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 the 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' girdles, 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' sweaters, 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 "Silk Look" and "The Look and Feel of Imported Silk," thus implying that such products were composed wholly or in part of silk, when in fact the products contained no silk.

e. Fiber connoting terms were used in the said advertisement in such a manner as to require disclosure of the information required by the Act and Regulations, and all parts of the required information were not 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.

Among such products, but not limited thereto, were textile fiber products, namely, sheets advertised as being made of "Finest White Combed Percale in a Blend of Precious Pima Yarns." The terms Percale and Pima are fiber implying terms and the proposed respondent failed to set forth the true generic name of these fibers in conjunction therewith.

PAR. 6. The acts and practices of respondent 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 and practices in commerce, under the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondent named in the caption hereof with violation of the Federal Trade Commission Act and the Textile Fiber Products Identification Act, and the respondent 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 respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondent 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 respondent 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 Jackson's/Byrons Enterprises, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at 29 N. W. Tenth Street, in the city of Miami, State of Florida.

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2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

It is ordered, That respondent Jackson's/Byrons Enterprises, Inc., a corporation, and its officers, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, manufacture for 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, 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:

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, through the use of such terms as "Silk Look" and "Look and Feel of Imported Silk," or any other words or terms, that any fibers are present in a textile fiber product, when such is not the case, except that nothing herein shall be construed to prevent the use of a non-deceptive statement in advertising that a textile fiber product has one or more of the characteristics of a material or fiber not present in the said product, if the advertisement contains all of the required fiber content information as to such product.

3. Falsely and deceptively advertising textile fiber products by:

(a) Making any representations, by disclosure or by implication, as to the fiber contents of any textile fiber product in any written advertisement which is used to

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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 products need not be stated.

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

(c) 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.

(d) 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.

(e) 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.

(f) Failing to state all parts of the required information in immediate conjunction with each other in legible and conspicuous type, or lettering, of equal size and prominence, where textile fiber products are advertised in such a manner as to require disclosure of the information required by the Act and Regulations.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

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IN THE MATTER OF

AMERICAN MOTORS CORPORATION ET AL.

ORDER, OPINION, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
SEC. 2(a) OF THE CLAYTON ACT

*Docket 7357. Complaint, Jan. 13, 1959—Decision, July 19, 1965**

Order requiring a major appliance manufacturer and distributor of electric appliances located in Detroit, Mich., to cease discriminating in price among competing customers in violation of Sec. 2(a) of the Clayton Act by granting preferential prices for its household appliances to its merchandising distributors, and from granting preferential prices in the future to any of its customers, unless it satisfies the Commission in advance that all price differentials are cost justified, and notifies all of its customers of such price differentials and its basis.

COMPLAINT

The Federal Trade Commission, having reason to believe that American Motors Corporation and American Motors Sales Corporation have violated, and are now violating, the provisions of subsection (a) Section 2 of the Clayton Act, as amended by the Robinson-Patman Act (U.S.C., Title 15, Section 13), hereby issues its complaint stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent American Motors Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland with its office and principal place of business located at 14250 Plymouth Road, Detroit 32, Michigan.

PAR. 2. Respondent American Motors Sales Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 14250 Plymouth Road, Detroit 32, Michigan.

PAR. 3. Respondent American Motor Sales Corporation is a wholly owned subsidiary of respondent American Motors Corporation.

PAR. 4. Respondent American Motors Corporation is a major manufacturer and distributor in the United States of electric appliances. Included among these electric appliances are refrigerators, ranges, home freezers, automatic washers, clothes dryers and room coolers, some of which this respondent manufactures at its factories located in Detroit, Michigan, and Grand Rapids, Michi-

*Reported as amended by Commission's order of October 7, 1965.