

Complaint

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IN THE MATTER OF
DEBUTOGS, INC., ET AL.

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

Docket C-991. Complaint, Sept. 16, 1965—Decision, Sept. 16, 1965

Consent order requiring a New York City manufacturer of wearing apparel, to cease misbranding and falsely advertising its textile fiber products, misrepresenting its textile products as "Water Repellent," and furnishing false guaranties.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, the Textile Fiber Products Identification Act, the Wool Products Labeling Act of 1939 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 Debutogs, Inc., and Junior Bazaar, Inc., corporations and Hannah S. Horowitz, individually and as an officer of said corporations, 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, the Wool Products Labeling Act of 1939 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. Respondents Debutogs, Inc., and Junior Bazaar, Inc., are corporations organized, existing and doing business under and by virtue of the laws of the State of New York.

Respondent Hannah S. Horowitz is an officer of corporate respondents. She participates in the formulation, direction and control of the acts, practices and policies of corporate respondents including the acts and practices hereinafter set forth.

The respondents are engaged in the manufacture and sale of wearing apparel with their principal place of business located at 512 Seventh Avenue, New York, New York.

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, manufacture for introduction, sale, advertising, and offer-

ing 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 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 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.
2. To disclose the percentage of such fibers.
3. To show 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 with respect to such product.

PAR. 4. 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 that the respective percentages of fibers contained in the front and back of pile fabrics were not set out in such a manner as to give the ratio between the face and back of such fabrics where an election was made to separately set out the fiber content of the face and back of textile fiber products containing pile fabrics, in violation of Rule 24 of the aforesaid Rules and Regulations.

PAR. 5. 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.

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Among such textile fiber products but not limited thereto were articles of wearing apparel which were falsely and deceptively advertised by means of advertising mats distributed by respondents throughout the United States in that the true generic names of the fibers in such articles were not set forth.

PAR. 6. 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 advertising mats distributed by respondents throughout the United States in the following respects:

A. A fiber trademark was used in advertising textile fiber products, namely ladies' coats, 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' coats, 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.

PAR. 7. Respondents have failed to maintain proper records showing the fiber content of the textile fiber products manufactured by them, in violation of Section 6(a) of the Textile Fiber Products Identification Act and Rule 39 of the Regulations promulgated thereunder.

PAR. 8. Respondents furnished false guaranties that certain of their textile fiber products were not misbranded or falsely invoiced in violation of Section 10(b) of the Textile Fiber Products Identification Act.

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. Subsequent to the effective date of the Wool Products Labeling Act of 1939, respondents have introduced or manufactured

for introduction into commerce, sold, transported, distributed, delivered for shipment and offered for sale in commerce, as "commerce" is defined in said Act, wool products as "wool product" is defined therein.

PAR. 11. Respondents furnished false guaranties under Section 9(b) of the Wool Products Labeling Act of 1939 with respect to certain of their wool products by falsely representing in writing that respondents had a continuing guaranty on file with the Federal Trade Commission when respondents in furnishing such guaranties had reason to believe that the wool products so falsely guaranteed would be introduced, sold, transported and distributed in commerce, in violation of Rule 33(d) of the Rules and Regulations under the Wool Products Labeling Act of 1939 and Section 9(b) of said Act.

PAR. 12. The acts and practices of respondents, as set forth above were, and are, in violation of the Wool Products Labeling Act of 1939 and in 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. 13. Respondents, subsequent to July 1, 1954, the effective date of the Flammable Fabrics Act, have manufactured for sale, 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, articles of wearing apparel, as the term "article of wearing apparel" is defined therein.

PAR. 14. Respondents, subsequent to July 1, 1954, have falsely represented on invoices to their customers that a Continuing Guaranty has been filed with the Federal Trade Commission with respect to the articles of wearing apparel mentioned above, to the effect that reasonable and representative tests made under the procedure provided in Section 4 of the Flammable Fabrics Act, as amended, and the Rules and Regulations promulgated thereunder, show that such articles of wearing apparel 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 articles of wearing apparel covered by such guaranty might be introduced, sold or transported in commerce, in violation of Rule 10(d) of the Rules

and Regulations promulgated under the Flammable Fabrics Act and Section 8(b) of said Act.

PAR. 15. The acts and practices of respondents herein alleged were and are in violation of the Flammable Fabrics Act and the Rules and Regulations promulgated thereunder and as such 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. 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' wearing apparel, to the public.

PAR. 17. 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 New York 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. 18. Respondents in the course and conduct of their business as aforesaid have made statements in advertising and on labels on or affixed to textile products, such as "Water Repellent" and thereby have represented that the said textile products were in fact "Water Repellent." In truth and in fact said textile products were not "Water Repellent" or processed or otherwise treated to be "Water Repellent."

PAR. 19. The acts and practices set forth in Paragraph Eighteen are false and deceptive and have had and now have the tendency and capacity to mislead and deceive purchasers of said textile products as to the water repellency of said products.

PAR. 20. 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 and deceptive acts and practices in commerce, in violation of Section 5 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 Wool Products Labeling Act of 1939, the Textile Fiber Products Identification Act and the Flammable Fabrics Act, and the respondents having

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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. Respondents Debutogs, Inc., and Junior Bazaar, Inc., are corporations organized, existing and doing business under and by virtue of the laws of the State of New York, with their office and principal place of business located at 512 Seventh Avenue, New York, New York.

Respondent Hannah S. Horowitz is an officer of both said corporations and her address is the same as that of said corporations.

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 Debutogs, Inc., and Junior Bazaar, Inc., corporations, and their officers, and Hannah S. Horowitz, individually and as an officer of said corporations, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, manufacture 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

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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. 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.

2. Failing to set forth respective percentages of fibers contained in the front and back of pile fabrics in such a manner as to give the ratio between the front and back of each such fabric where an election is made to separately set out the fiber content of the face and back of textile products containing pile fabrics.

B. Falsely and deceptively advertising textile fiber products by:

1. 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 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 advertisements without a full disclosure of the required content information in at least one instance in the said advertisement.

3. 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.

It is further ordered, That respondents Debutogs, Inc., and Junior Bazaar, Inc., corporations, and their officers, and Hannah S. Horowitz, individually and as an officer of said corporations, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, manufacture for introduction, sale, advertising, or offering for sale, in commerce, or the

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transportation or causing to be transported in commerce, or the importation into the United States of textile fiber products; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of textile fiber products, which have 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 textile fiber products, whether 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, do forthwith cease and desist from failing to maintain records of fiber content of textile fiber products manufactured by them, as required by Section 6(a) of the Textile Fiber Products Identification Act and Rule 39 of the Regulations promulgated thereunder.

It is further ordered, That respondents Debutogs, Inc., and Junior Bazaar, Inc., corporations, and their officers, and Hannah S. Horowitz, individually and as an officer of said corporations, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from furnishing a false guaranty that any textile fiber product is not misbranded or falsely invoiced.

It is further ordered, That Debutogs, Inc., and Junior Bazaar, Inc., corporations, and their officers, and Hannah S. Horowitz, individually and as an officer of said corporations, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce, or the offering for sale, sale, transportation, distribution or delivery for shipment in commerce, of wool wearing apparel or other wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from furnishing a false guaranty that any wool product is not misbranded, when the respondents have reason to believe that such wool product may be introduced, sold, transported or distributed in commerce.

It is further ordered, That Debutogs, Inc., and Junior Bazaar, Inc., corporations, and their officers, and Hannah S. Horowitz, individually and as an officer of said corporations, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from furnishing to any person a guaranty with respect to any article of wearing apparel or 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 article of wearing apparel, or the fabric used or contained therein, 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 article of wearing apparel or fabric was manufactured or from whom it was received.

It is further ordered, That respondents Debutogs, Inc., and Junior Bazaar, Inc., corporations, and their officers, and Hannah S. Horowitz, individually and as an officer of said corporations, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of textile products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing in any manner that textile products offered for sale are "Water Repellent": *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that the products so characterized have been processed or treated to be and are in fact "Water Repellent."

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
THE LOUANGEL CORPORATION ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket C-992. Complaint, Sept. 16, 1965—Decision, Sept. 16, 1965

Consent order requiring a Brooklyn, N.Y., distributor of toilet preparations to jobbers and retailers, to cease representing falsely on bottles, cartons