

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

Docket C-1016. Complaint, Nov. 18, 1965—Decision, Nov. 18, 1965

Consent order requiring four affiliated Massachusetts retailers of fur products and textile fiber products, to cease violating the Fur Products

Labeling Act by falsely invoicing and deceptively advertising their fur products; and to cease violating the Textile Fiber Products Identification Act by misbranding and falsely advertising their textile fiber products, and misrepresenting the character and fiber content of wearing apparel.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, the Fur Products Labeling 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 King's Department Stores, Inc., King's Department Store of Springfield, Inc., King's Dept. Store of Worcester, Inc. and King's Boott Mills Store, Inc., corporations, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling 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 King's Department Stores, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware. Its office and principal place of business is located at 150 California Street, Newton, Massachusetts. Said corporate respondent operates retail outlets located in various States of the United States.

Respondent King's Department Store of Springfield, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Massachusetts. Its office and principal place of business is located at 828 State Street, Springfield, Massachusetts.

Respondent King's Dept. Store of Worcester, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Massachusetts. Its office and principal place of business is located at 380 Maple Street, Shrewsbury, Massachusetts.

Respondent King's Boott Mills Store, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Massachusetts. Its office and principal place of business is located at 171 Watertown Street, Newton, Massachusetts. Respondents are retailers of fur products and textile fiber products.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondents have been and are

now engaged in the introduction into commerce, and in the sale, advertising, and offering for sale in commerce, and in the transportation and distribution in commerce, of fur products; and have sold, advertised, offered for sale, transported and distributed fur products which have been made in whole or in part of furs which have been shipped and received in commerce, as the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act.

PAR. 3. Certain of said fur products were falsely and deceptively invoiced by the respondents in that they were not invoiced as required by Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated under such Act.

Among such falsely and deceptively invoiced fur products, but not limited thereto, were fur products covered by invoices which failed to show any required information.

PAR. 4. Certain of said fur products were falsely and deceptively invoiced in violation of the Fur Products Labeling Act in that they were not invoiced in accordance with the Rules and Regulations promulgated thereunder in the following respects:

(a) The term "natural" was not used on invoices to describe fur products which were not pointed, bleached, dyed, tip-dyed or otherwise artificially colored, in violation of Rule 19(g) of said Rules and Regulations.

(b) Required item numbers were not set forth on invoices, in violation of Rule 40 of said Rules and Regulations.

PAR. 5. By means of advertisements which appeared in issues of the Brockton Daily Enterprise and Boston Record American, newspapers of interstate circulation, and others of similar import and meaning not specifically referred to herein, respondents falsely and deceptively advertised fur products in violation of the Fur Products Labeling Act in that the said fur products were not advertised in accordance with the Rules and Regulations promulgated thereunder in that the term "natural" was not used to describe fur products which were not pointed, bleached, dyed, tip-dyed or otherwise artificially colored in violation of Rule 19(g) of the said Rules and Regulations.

PAR. 6. In advertising fur products for sale, as aforesaid, respondents made pricing claims and representations of the types covered by subsections (a), (b), (c) and (d) of Rule 44 of the Regulations under the Fur Products Labeling Act. Respondents in making such claims and representations failed to maintain full and adequate records disclosing the facts upon which such pricing claims and

representations were based, in violation of Rule 44(e) of the said Rules and Regulations.

PAR. 7. The aforesaid acts and practices of respondents, as herein alleged, are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder and constitute unfair and deceptive acts and practices and unfair methods of competition in commerce under the Federal Trade Commission Act.

PAR. 8. Subsequent to the effective date of the Textile Fiber 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 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 Products Identification Act.

PAR. 9. 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 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. 10. 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 articles of wearing apparel which were falsely and deceptively advertised in newspapers of interstate circulation distributed by re-

spondents throughout the United States in that the true generic names of the fibers in such articles were not set forth.

PAR. 11. 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 newspapers of interstate circulation, distributed by respondents throughout the United States in the following respects:

(a) Terms were used in written advertisements which are descriptive of a method of manufacture, construction or weave, which are indicative of a textile fiber or fibers and imply fiber content under Section 4(c) of the Act without setting forth the true generic name of the fiber or fibers present in violation of Rule 40 of the aforesaid Rules and Regulations.

(b) A fiber trademark was used in advertising textile fiber products, namely wearing apparel 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.

(c) A fiber trademark was used in advertising textile fiber products, namely wearing apparel 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.

(d) A fiber trademark was used in advertising textile fiber products, namely wearing apparel 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.

PAR. 12. 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. 13. Respondents in the course and conduct of their business, are now, and for some time last past have been, engaged in the

advertising, offering for sale, sale and distribution of merchandise, namely wearing apparel, to the public.

PAR. 14. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said products to be imported into the United States from foreign countries 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. 15. Respondents in the course and conduct of their business, as aforesaid, have made statements in advertisements to their customers misrepresenting the fiber content of certain of their products.

Among such misrepresentations, but not limited thereto, were statements representing the fiber content thereof as "wool" whereas in truth and in fact said textile products contained substantially different fibers and amounts of fibers than represented.

PAR. 16. The acts and practices set out in Paragraph Fifteen have had and now have the tendency and capacity to mislead and deceive the purchasers of said products as to the true content thereof.

PAR. 17. The aforesaid acts and practices of respondents as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, 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 with the Federal Trade Commission Act, the Fur Products Labeling 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 King's Department Stores, Inc., 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 150 California Street, Newton, Massachusetts.

Respondent King's Department Store of Springfield, 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 828 State Street, Springfield, Massachusetts.

Respondent King's Dept. Store of Worcester, 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 380 Maple Street, Shrewsbury, Massachusetts.

Respondent King's Boott Mills Store, 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 171 Watertown Street, Newton, Massachusetts.

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 King's Department Stores, Inc., King's Department Store of Springfield, Inc., King's Dept. Store of Worcester, Inc., and King's Boott Mills Store, Inc., corporations, and their officers, and respondents' representatives, agents, employees, and corporate subsidiaries and affiliates, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the sale, advertising, offering for sale, transportation, or distribution of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices to purchasers of fur products showing in words and figures plainly legible all the information required to be disclosed in each of the subsections of Section 5(b)(1) of the Fur Products Labeling Act.

2. Failing to set forth the term "natural" as part of the information required to be disclosed on invoices under the Fur Products Labeling Act and Rules and Regulations promulgated thereunder to describe fur products which are not pointed, bleached, dyed, tip-dyed or otherwise artificially colored.

3. Failing to set forth on invoices the item number or mark assigned to a fur product.

B. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement or notice which is intended to aid, promote, or assist, directly or indirectly, in the sale, or offering for sale of any fur products, and which fails to set forth the term "natural" as part of the information required to be disclosed in advertisements under the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder to describe fur products which are not pointed, bleached, dyed, tip-dyed or otherwise artificially colored.

C. Making claims and representations of the types covered by subsections (a), (b), (c) and (d) of Rule 44 of the Rules and Regulations promulgated under the Fur Products Labeling Act unless there are maintained by respondents full and adequate records disclosing the facts upon which such claims and representations are based.

It is further ordered, That respondents King's Department Stores, Inc., King's Department Store of Springfield, Inc., King's Dept. Store of Worcester, Inc. and King's Boott Mills Store, Inc., corporations, and their officers, and respondents' representatives, agents, employees, and corporate subsidiaries and affiliates, directly or through any corporate or other device, do forthwith cease and desist from introducing, delivering for introduction, selling, advertising, or offering for sale, in commerce, or in transporting or causing to be transported in commerce, or importing into the United States, any textile fiber product; or selling, offering for sale, advertising, delivering, transporting, or causing to be transported, any textile fiber product which has been advertised or offered for sale, in commerce, or selling, offering for sale, advertising, delivering, transporting, or causing to be transported after shipment in commerce, 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 unless each sample, swatch and specimen of textile fiber product subject to the aforesaid Act which is used to promote or effect sales of such textile fiber products has

securely affixed thereto or place thereon a label showing the respective fiber content and other required information.

It is further ordered, That respondents King's Department Stores, Inc., King's Department Store of Springfield, Inc., King's Dept. Store of Worcester, Inc. and King's Boott Mills Store, Inc., corporations, and their officers, and respondents' representatives, agents, employees, and corporate subsidiaries and affiliates, 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:

Falsely or 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 terms in written advertisements which are descriptive of a method of manufacture, construction or weave and which are indicative of a textile fiber or fibers and imply fiber content under Section 4(c) of the Act without disclosure of the proper generic name or names.
3. Using a fiber trademark in advertisements without a full disclosure of the required content information in at least one instance in the said advertisement.
4. 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.

5. 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.

It is further ordered, That respondents King's Department Stores, Inc., King's Department Store of Springfield, Inc., King's Dept. Store of Worcester, Inc. and King's Boott Mills Store, Inc., corporations, and their officers, and respondents' representatives, agents, employees, and corporate subsidiaries and affiliates, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of wearing apparel or any other textile products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting the character or amount of constituent fibers contained in wearing apparel or any other textile products in advertisements applicable thereto or in any other manner.

It is further ordered, That respondent King's Department Stores, Inc., shall within thirty (30) days after service hereof furnish to each of its corporate subsidiaries and affiliates (except those expressly named as co-respondents in the order to cease and desist) a copy of this order.

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.
