

IN THE MATTER OF

M. RUBIN & SONS, INC., ET AL.

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

Docket C-1043. Complaint, Feb. 28, 1966—Decision, Feb. 28, 1966

Consent order requiring a New York City corporation to cease misbranding and deceptively advertising its textile fiber products and furnishing false guaranties for its wool products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, the Wool Products Labeling Act of 1939, 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 M. Rubin & Sons, Inc., a corporation, and Milton Rubin, Donald L. Rubin, Philip Rubin and Robert Rubin, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of the 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 M. Rubin & Sons, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. Said corporation has its office and principal place of business located at 707 Broadway, New York, New York.

Respondents Milton Rubin, Donald L. Rubin, Philip Rubin and Robert Rubin are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent including the acts and practices hereinafter set forth. Said individual respondents have their office and principal place of business located at 707 Broadway, 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 offering for sale 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 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 labels which set forth the fiber content without disclosing the portion of the garment the fiber content disclosures referred to.

Also among such misbranded textile fiber products, but not limited thereto, were textile fiber products invoiced or advertised by means of invoices and brochures prepared by respondents, containing terms which represented, directly or by implication, certain fibers as present in the said products when such was not the case.

Among such terms, but not limited thereto, was the term "nile-tex."

PAR. 4. 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 prod-

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ucts in written advertisements used to aid, promote, and to 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 the aforesaid disclosures and implications as to fiber content, but not limited thereto were the terms "satin twill," "ni-letex" and "ballon cloth."

Among such textile fiber products, but not limited thereto were sportswear and sleeping bags which were falsely and deceptively advertised by means of catalogs and other printed matter distributed by the respondents throughout the United States, in that the true generic name of the fibers contained in such products were not set forth.

PAR. 5. 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. 6. 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 respects:

1. Fiber trademarks used in conjunction with the required information did not appear in immediate conjunction with the generic name of the fiber nor did it appear in type or lettering of equal size and conspicuousness, in violation of Rule 17(a) of the aforesaid Rules and Regulations.

2. The required information as to fiber content was not set forth in such a manner as to separately show the fiber content of each section of textile fiber products containing two or more sections, in violation of Rule 25(b) of the aforesaid Rules and Regulations.

PAR. 7. Certain of said textile fiber products were further 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 sleeping bags which were falsely and deceptively advertised by means of catalogs, and other printed matter distributed by the

respondents throughout the United States in the following respects:

1. A fiber trademark was used in advertising textile fiber products 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.

2. A fiber trademark was used in advertising textile fiber products 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.

3. All parts of the required information were not set forth 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.

PAR. 8. 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. 9. Subsequent to the effective date of the Wool Products Labeling Act of 1939, respondents have introduced into commerce, sold, transported, distributed, delivered for shipment, shipped and offered for sale in commerce as "commerce" is defined in said Act, wool products as the term "wool products" is defined therein.

PAR. 10. Respondents have furnished their customers with false guaranties that certain of their wool products were not misbranded by falsely representing in writing on invoices that respondents had filed a continuing guaranty under the Wool Products Labeling Act of 1939 with the Federal Trade Commission, 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. 11. The acts and practices of the respondents as set forth above, were and are in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, and constituted, and now constitute, unfair and deceptive acts and practices and unfair methods of competition in com-

merce, within the intent and meaning of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Textiles and Furs proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act, the Wool Products Labeling Act of 1939 and the Textile Fiber Products Identification Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the respondents that the law has been violated as alleged in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission having reason to believe that the respondents have violated the Federal Trade Commission Act, the Wool Products Labeling Act of 1939 and the Textile Fiber Products Identification Act, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings and enters the following order:

1. Respondent M. Rubin & Sons, 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 707 Broadway, New York, New York.

Respondents Milton Rubin, Donald L. Rubin, Philip Rubin and Robert Rubin are officers of said corporation, with their office and principal place of business 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 M. Rubin & Sons, Inc., a corporation, and Milton Rubin, Donald L. Rubin, Philip Rubin and

Robert Rubin, 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, 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 textile fiber products; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any 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 any textile fiber products, whether they are 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:

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 separately set forth the information as to fiber content on the required label in such a manner as to separately show the fiber content of the separate sections of textile fiber products containing two or more sections where such form of marking is necessary to avoid deception.

3. Using a fiber trademark as a part of the required information on labels affixed to such textile fiber products without the required generic name of the fiber appearing on the said labels in immediate conjunction therewith and in type or lettering of equal size and conspicuousness.

B. Falsely and deceptively advertising textile fiber products by:

1. Making any representations, by disclosure or by implication, as to fiber content 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,

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tag, label or other means of identification under Section 4(b) (1) and (2) of the Textile Fiber Products Identification Act is contained in the said advertisement, except that the percentages of a fiber 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.

4. Failing to set forth all parts of the required information in advertisements of textile fiber products in immediate conjunction with each other in legible and conspicuous type or lettering of equal size and prominence.

C. Failing to maintain and preserve for at least 3 years proper records showing the 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 M. Rubin & Sons, Inc., a corporation, and its officers, and Milton Rubin, Donald L. Rubin, Philip Rubin and Robert Rubin, 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 furnishing a false guaranty that any wool product is not misbranded under the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder when there is reason to believe that any wool product so guaranteed may be introduced, sold, transported or distributed in commerce as the term "commerce" is defined in the aforesaid 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.

Modified Order

IN THE MATTER OF

INLAND CONTAINER CORPORATION ET AL.
MODIFIED ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
SEC. 7 OF THE CLAYTON ACT

Docket 7993. Complaint, June 24, 1960—Decision, March 1, 1966

Order modifying the divestiture order of the Commission of July 31, 1964, 66 F.T.C. 329, in accordance with a final order of the Court of Appeals, Seventh Circuit, dated January 27, 1966, requiring respondent, in lieu of divestiture, to establish, as an effective competitor, a corrugated shipping container manufacturing plant in the Louisville, Ky., area, providing necessary assistance as required by order herein;

The divestiture order of July 31, 1964 directed respondent to sell the Louisville, Ky., corrugated shipping container plant of the General Box Co., which it acquired in 1958.

MODIFIED ORDER

Inland Container Corporation and its subsidiary by the same name, having filed in the United States Court of Appeals for the Seventh Circuit on September 23, 1964, a petition to review and set aside the order of divestiture issued herein on July 31, 1964 [66 F.T.C. 329]; and the Commission and respondents having subsequently agreed upon the provisions of a final order modifying the order entered by the Commission on July 31, 1964; and the Court, on January 27, 1966, having issued its final order affirming and enforcing said order as submitted by the Commission and respondents;

Now, therefore, it is hereby ordered, That the order of July 31, 1964, be, and it hereby is, modified in accordance with the final order of the Court to read as follows:

It is ordered, That:

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The terms listed below are used herein in the sense defined unless otherwise indicated by their content.

A. *Louisville.* The area within a ten-mile radius of the city limits of Louisville, Kentucky.

B. *Eligible Company.* A corrugated shipping container manufacturer (1) not controlled directly or indirectly by Inland; (2) with no shipping container plant in the Louisville area at this time; (3) which can make a showing that it intends to conduct a shipping container manufacturing business with an additional