
IN THE MATTER OF
CARPET DISCOUNT MART, INC., ET AL.

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

Docket C-1140. Complaint, Nov. 25, 1966—Decision, Nov. 25, 1966

Consent order requiring a Philadelphia, Pa., carpet retailer to cease falsely
advertising, deceptively guaranteeing, and misbranding its merchandise.

Complaint

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COMPLAINT

Pursuant to 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 Carpet Discount Mart, Inc., a corporation, and Morris Chaiken, individually and as an officer of said corporation, hereafter 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 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 Carpet Discount Mart, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the Commonwealth of Pennsylvania, and is engaged in the retail sale of carpeting, with its office and principal place of business located at 139 N. 63rd Street, Philadelphia, Pennsylvania.

Respondent Morris Chaiken is an officer of Carpet Discount Mart, Inc., a corporation. He is primarily responsible for formulating, directing and controlling the policies, acts and practices of said corporation. His address is the same as that of the respondent corporation.

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, 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 or 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 the constituent fibers contained therein.

Among such misbranded textile fiber products, but not limited thereto, were floor coverings which were falsely and deceptively advertised in The Philadelphia Sunday Bulletin, and The Philadelphia Sunday Inquirer, newspapers published in the city of Philadelphia, Commonwealth of Pennsylvania, and having a wide circulation in the said Commonwealth and various other States of the United States, in that the respondents in disclosing the fiber content information as to floor coverings containing exempted backings, fillings, or paddings, failed to set forth such fiber content information in such a manner as to indicate that it applied only to the face, pile, or outer surface of the floor coverings and not the exempted backings, fillings, or paddings.

PAR. 4. Certain of said textile fiber products sold by means of samples, swatches or specimens, and unaccompanied by an invoice or other paper showing the information required to appear on the labels, were further misbranded by the respondents, in that there was not on or affixed to such textile fiber products any stamp, tag, label, or other means of identification showing the required information in violation of Section 4(b) of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated under such Act.

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.

Among such textile fiber products, but not limited thereto were floor coverings which were falsely and deceptively advertised by means of advertisements placed by the respondents in The Philadelphia Sunday Bulletin and other newspapers published in Philadelphia, Commonwealth of Pennsylvania, and having a wide circulation in said Commonwealth and various other nearby states of the United States in that the true generic names of the fibers in such floor coverings were not set forth.

PAR. 6. By means of the aforesaid advertisements and others of similar import and meaning not specifically referred to herein, respondents falsely and deceptively advertised textile fiber products in violation of the Textile Fiber Products Identification Act in that said textile fiber products were not advertised in accordance with the Rules and Regulations promulgated thereunder in the following respects:

(a) In disclosing the required fiber content information as to floor coverings containing exempted backings, fillings, or padding, such disclosure was not made in such a manner as to indicate that such required fiber content information related only to the face, pile, or outer surface of the floor covering and not to the backing, filling, or padding in violation of Rule 11 of the aforesaid Rules and Regulations.

(b) Fiber trademarks were used in advertising textile fiber products, namely floor coverings, containing only one fiber, and such fiber trademarks did not appear at least once in the required fiber content information in the said advertisement in immediate proximity and conjunction with the generic name of the fiber in plainly legible and conspicuous type or lettering at least once in the advertisement, in violation of Rule 41(c) of the aforesaid Rules and Regulations.

PAR. 7. The acts and practices of the 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. 8. 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 the respondents' suppliers to purchasers thereof located in the various 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. 9. Respondents in the course and conduct of their business, as aforesaid, have made the following guaranty statements in newspaper advertising of their textile fiber products, namely, floor coverings.

Guaranteed 10 Years For Wear
Guaranteed Until 1973

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Guaranteed Until 1979 15 Year Guarantee Against Wear—Shredding—Pilling—Fuzzing

PAR. 10. Through the use of said statements and representations, as set forth above, and others similar thereto, but not specifically set out herein, the respondents have represented, directly or indirectly, to the purchasing public that said floor coverings are unconditionally guaranteed for 10 and 15 years.

PAR. 11. In truth and in fact said floor coverings are not unconditionally guaranteed for 10 and 15 years and the nature and extent of the guarantee and the manner in which the guarantor will perform was not set forth in connection therewith. Moreover, the name and address of the guarantor were not set forth as required. Therefore, the statements and representations made by the respondents, as hereinbefore stated, were and are false, misleading and deceptive.

PAR. 12. The aforesaid acts and practices of the respondents, as herein alleged in Paragraphs 8, 9, 10, and 11 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 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 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 and the Textile

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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 Carpet Discount Mart, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Pennsylvania, with its office and principal place of business located at 139 North 63rd Street, Philadelphia, Pennsylvania.

Respondent Morris Chaiken is an officer of said corporation and his 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 Carpet Discount Mart, Inc., a corporation, and its officers, and Morris Chaiken, individually and as an officer 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. Failing to set forth that the required disclosure as to the fiber content of floor covering relates only to the face, pile or outer surface of such products and not to exempted backing, filling or padding, when such is the case.

2. Failing to affix labels to such textile fiber products showing each element of information required to be dis-

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

B. Falsely and deceptively advertising textile fiber products by:

1. Making any representations by disclosure or by implication as to the 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, 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 the percentages of fibers present in the textile fiber product need not be stated.

2. Failing to set forth in disclosing the required fiber content information as to floor coverings containing exempted backings, fillings or paddings, that such disclosure relates only to the face, pile or outer surface of such textile fiber products and not to the exempted backing, fillings or paddings.

3. 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 Carpet Discount Mart, Inc., a corporation, and its officers, and Morris Chaiken, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the sale, offering for sale, or distribution of floor coverings, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing that any of respondents' products are guaranteed, unless the nature and extent of the guarantee, the name of the guarantor, the address of guarantor and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed.

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.
