

IN THE MATTER OF
CUSTOM CARPET SHOP OF VIRGINIA 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-1173. Complaint, Feb. 17, 1967—Decision, Feb. 17, 1967

Consent order requiring an Arlington, Va., carpet dealer to cease making
deceptive pricing and savings claims, misbranding the fiber content, and
falsely 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 Custom Carpet Shop of Virginia, a corporation, and Floyd H. Charsky, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of the said Acts, and the Rules and Regulations 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 Custom Carpet Shop of Virginia is a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia, with its office and principal place of business located at 4206 Wilson Boulevard, Arlington, Virginia.

Respondent Floyd H. Charsky is an officer and sole stockholder of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His business address is the same as the corporate respondent.

PAR. 2. Respondents now are, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of rugs, carpets and floor coverings to the public at retail.

PAR. 3. 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 Virginia to purchasers thereof located in various other States of the United States and in the District of Columbia, 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. 4. In the course and conduct of their business, and for the purpose of inducing the sale of their said products, respondents have made certain statements in their advertising in newspapers of general interstate circulation, in mailed handbills and in various signs on or within the respondents' premises. Typical and illustrative of the foregoing, but not all inclusive thereof, are the following:

1. Fabulous discount carpet sale.

Continuing our policy we'll give you a better carpet buy on any name brand carpet made in the United States during this special event.

Partial roll discounts carpet sale.

Inaugural carpet clearance sale, four days only * * * hundreds of room-sized remnants, part rolls all at sensational savings don't miss this clearance of top quality broadloom carpets at tremendous discounts.

Washington's Birthday Sale.

Warehouse Sale.

\$500,000 Inventory Clearance Sale!

\$500,000 Sale! Factory Closeout at better than wholesale prices.

6 Day Sale * * * Factory Close-Outs, Trial Runs and Partial Rolls * * *.

2. Savings up to 60% in our mill-end department.

Complaint

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Remnant Sale—Every Remnant on our Floor reduced from 50% to 75%.

3. Nylon solids and tweeds regular \$4.95 reduced to \$2.95 square yard.

Continuous Filament Multi-Tone Nylon regular \$5.95 reduced to \$3.95 square yard.

Thick Acrilan Plush Pile, regular \$11.95 square yard, \$7.95 square yard.

Wool Loop Textured Pile, regular \$12.95 square yard, reduced to \$6.95 square yard.

BRAIDED RUGS

Reg.	Size	Sale
\$ 8.95	27"x48"	3.00
14.95	3'x5'	5.00
49.95	9'x12'	29.95
69.95	9'x12'	39.50
89.95	9'x12'	49.50
109.95	9'x12'	59.95

4. Broadloom Clearance 3 outstanding \$10.95 Carpet Values \$6.95 sq. yd.

* * * Completely installed—Includes carpet * * * cushion and installation.

YOUR CHOICE.

1. Dupont 501 Continuous Filament Nylon Pile.

2. Acrylic plush pile.

3. Wool tight loop pile.

Special Package
Your Choice
Now \$6.95 sq. yd.

Dupont 501 Continuous
Filament Nylon Pile
Acrylic Plush Pile
Wool Plush Pile

Includes carpet, cushion and installation.

PAR. 5. By and through the use of the aforesaid statements and representations, and others of similar import but not specifically set forth herein, respondents have represented directly or indirectly:

1. That during the period of the aforesaid advertised "Sales," "clearances," "special events," "factory closeouts" or other limited periods of sale, the price of each item of merchandise contained in said statements and representations represents a reduction, not so insignificant as to be meaningless, from the price at which respondents had made an actual bona fide offer to sell said merchandise on a regular basis for a reasonably substantial period of time in the recent regular course of their business. That the represented reduced prices are available only during the limited period of the sale and would be returned to the respond-

ents' pre-sale bona fide offering price or to some other substantially higher amount immediately after the completion of the sale.

2. That purchasers of merchandise advertised as "Savings up to 60% . . ." or "reduced from 50% to 75%" or words of similar import would realize a savings of the stated dollar or percentage amount from the actual bona fide price at which said merchandise was offered to the public by the respondents for a reasonably substantial period of time in the recent regular course of their business.

3. That the said higher price amounts, accompanied by the words "Regular," "Reg," or words of similar import, are the prices at which such articles of merchandise were sold or offered for sale in good faith by the respondents for a reasonably substantial period of time in the recent regular course of their business. By and through the use of such comparative price technique, respondents represent, directly or indirectly, that the purchasers of said merchandise save an amount equal to the difference between said higher prices and corresponding lower prices.

4. That purchasers of merchandise advertised as a "Special Package . . ." or words of similar import, which listed a single price covering the cost of the carpet, cushion and installation, would realize a savings of a stated or implied amount from the price of the said merchandise if each item of the "package" was purchased separately in the regular course of the respondents' business.

PAR. 6. In truth and fact:

1. The prices of each of the items of merchandise offered during the alleged "Sales," "Clearances," "special events," "factory closeouts" or other limited periods of sale did not represent a reduction, not so insignificant as to be meaningless, from the prices at which respondents had made bona fide offers to sell said merchandise on a regular basis for a reasonably substantial period of time in the recent regular course of their business.

2. The purchasers of the merchandise, advertised as "Savings up to 60%," "reduced from 50% to 70%" or other words of similar import, would not realize a savings of the stated dollar or percentage amounts from the respondents' actual bona fide price at which said merchandise was offered for sale by respondents for a reasonably substantial period of time in the recent regular course of their business.

3. The higher price amounts, accompanied by the words "Regular," "Reg," or words of similar import, are not the prices at

which such items of merchandise were sold. The purchasers of said merchandise do not save an amount equal to the difference between the said higher prices and the corresponding lower prices because the said higher prices are fictitious and non-existent and the corresponding lower prices are actually the respondents' usual and regular prices in the recent regular course of their business.

4. The purchasers of merchandise, advertised as a "Special Package" or words of similar import, which listed a single price to cover the cost of the carpet, cushion and installation do not realize a savings of the stated or implied amount from the price of the said merchandise if each item of the said "package" was purchased separately, because said package price amounted to the total of the prices of the items of said merchandise as sold separately by the respondents in the recent regular course of their business.

Said statements and representations were, therefore false, misleading and deceptive.

PAR. 7. In the conduct of their business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals engaged in the sale of products of the same general kind and nature as the aforesaid products sold by the respondents.

PAR. 8. The use by the respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into erroneous and mistaken belief that said statements and representations are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 9. The acts and practices of the respondents as set forth above were, and are, all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

PAR. 10. 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 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. 11. 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 floor coverings which were falsely and deceptively advertised in the Washington Post, a newspaper published in the city of Washington, District of Columbia, and having a wide circulation in interstate commerce, 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 covering and not to the exempted backings, fillings, or paddings.

PAR. 12. Certain of said textile fiber products, namely floor coverings, were further misbranded by the respondents, in that there was not on or affixed to said 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. 13. 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 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 adver-

tised in the Washington Post, a newspaper published in the city of Washington, District of Columbia, and having a wide interstate circulation in that such terms as "tweed" and "Du Pont 501" were used without the true generic names of the fibers in such floor coverings being set forth.

PAR. 14. 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, namely floor coverings, 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 aspects:

A. Information required under Section 4(c) of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder was set forth in abbreviated form, in violation of Rule 5(a) of said Rules and Regulations.

B. In disclosing the required fiber content information as to floor coverings containing exempted backings, fillings, or paddings, 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.

C. Fiber trademarks were used in advertising textile fiber products, namely floor coverings, 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.

D. 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 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. 15. The acts and practices of the respondents as set forth in Paragraphs Ten through Fourteen 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.

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 Deceptive Practices 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 said Acts, 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 Custom Carpet Shop of Virginia is a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia, with its principal office and place of business located at 4206 Wilson Boulevard, Arlington, Virginia.

Respondent Floyd H. Charsky is an officer of the said corporation and his business address is the same as that of the 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 Custom Carpet Shop of Virginia, a corporation, and its officers, and Floyd H. Charsky, individually and as an officer of the said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device in connection with the advertising, offering for sale, sale or distribution of rugs, carpets, floor coverings or any other product in commerce, as "commerce"

is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, by use of the words "Sale," "Clearance," "special event," "factory close-out," "limited time only" or any other word or words of similar import that the price of any merchandise is a reduction from respondents' former offering price for said merchandise: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for the respondents to establish that the price at which said merchandise is being offered for sale constitutes a reduction, in an amount not so insignificant as to be meaningless, from the actual bona fide price at which such merchandise was offered to the public on a regular basis by respondents for a reasonably substantial period of time in the recent regular course of their business;

2. Representing, directly or by implication, that any offer is limited in point of time or in any manner: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for the respondents to establish that any represented limitation or restriction was actually imposed and in good faith adhered to;

3. Using the words "Save," "Savings," "reduced" or any other word or words of similar import in conjunction with a stated dollar or percentage amount of savings: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for the respondents to establish as a fact that the stated dollar or percentage amount of savings actually represents the difference between the offering price and the actual bona fide price at which such merchandise had been sold or offered for sale on a regular basis to the public by the respondents for a reasonably substantial period of time in the recent regular course of their business;

4. Using the words "Regular," "Reg" or any other word or words of similar import to refer to any amount which is in excess of the price at which such merchandise has been sold or offered for sale in good faith by respondents for a reasonably substantial period of time in the recent regular course of their business; or otherwise misrepresenting the price at which such merchandise has been sold or offered for sale by respondents;

5. Using the words "Special Package," "Package," "Combination" or any other word or words of similar import, either alone or in conjunction with an offering price: *Provided, however*, That it shall be a defense in any enforcement proceeding instituted hereunder for the respondents to establish that the offering price of said "Special Package," "Package" or "Combination" is a reduction, not so insignificant as to be meaningless, from the sum of the actual bona fide prices at which the items of the said package or combination were sold separately by the respondents on a regular basis for a reasonably substantial period of time in the recent regular course of their business;

6. Falsely representing, in any manner, that savings are available to purchasers or prospective purchasers of respondents' merchandise; or misrepresenting in any manner, the amount of savings available to purchasers or prospective purchasers of respondents' merchandise at retail.

It is further ordered, That respondents Custom Carpet Shop of Virginia, a corporation, and its officers, and Floyd H. Charsky, 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. 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 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.

B. Falsely and deceptively advertising textile fiber products by:

1. Making any representations, directly 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, in the manner and form required, except that the percentages of the fibers present in the textile fiber product need not be stated.
2. Setting forth information required under Section 4(c) of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder in abbreviated form.
3. 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 backings, fillings, or paddings.
4. Using a fiber trademark in advertisements without a full disclosure of the required content information in at least one instance in the said advertisement.
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 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.

Complaint

IN THE MATTER OF

CARLTON FREDERICKS

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

Docket 8668. Complaint, Oct. 25, 1965—Decision, Feb. 20, 1967

Order dismissing a complaint against an author and radio lecturer on diet and nutrition which charged respondent with allegedly misrepresenting his academic background and status, the number of radio stations carrying his program, and the copyright data of his book on diets.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Carlton Fredericks, hereinafter referred to as respondent, has violated the provisions of said 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 Carlton Fredericks is an individual whose home address is Spring Valley, Rockland County, New York, and whose business address is 1440 Broadway, New York, New York.

PAR. 2. Respondent is now, and has been for some time last past, engaged in selling and distributing a radio program concerning nutrition, diet and health. Respondent's said program is recorded on tape by him at his home and place of business, and said tapes are then distributed by respondent or his agents to various radio stations throughout the United States. Respondent also writes, and has written and published, books and pamphlets concerned with nutrition, diet and health, which books and pamphlets are sold and distributed by respondent or his agents to purchasers thereof located in various States of the United States.

Respondent maintains, and at all times mentioned herein has maintained, a substantial trade in said radio programs, books and pamphlets in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 3. In the course and conduct of his business and for the purpose of inducing the sale and distribution of his radio program recordings to various radio stations throughout the United States, and of his books and pamphlets to the purchasing public, respond-