

It is ordered, That the initial decision be, and it hereby is, set aside.

It is further ordered, That the proceeding herein be, and it hereby is, terminated without dismissal of the complaint.

IN THE MATTER OF
SOUTHERN YARNS, INC., ET AL.

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

Docket C-1276. Complaint, Dec. 5, 1967—Decision, Dec. 5, 1967

Consent order requiring an Albertville, Ala., manufacturer of carpet yarn to cease misbranding its textile fiber and wool products and failing to maintain required records.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, the Textile Fiber Products Identification Act and the Wool Products Labeling Act of 1939, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Southern Yarns, Inc., a corporation, and Roger R. Ferry, individually and as an officer of said corporation, 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 and the Wool Products

Labeling Act of 1939, 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 as follows:

PARAGRAPH 1. Respondent Southern Yarns, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Alabama. Its office and principal place of business is located at Albertville, Alabama.

Individual respondent Roger R. Ferry is an officer of said corporation. He formulates, directs and controls the acts, practices and policies of said corporation. His office and principal place of business is the same as that of said corporation.

The respondents manufacture and sell, among other items, carpet yarns.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the introduction, delivery for introduction, manufacture 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. 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 which were falsely and deceptively invoiced, in that they were invoiced as "80% Acrylic, 20% Modacrylic" whereas, in truth and in fact, such textile fiber products contained substantially different amounts of fibers from those represented on the invoice.

PAR. 4. 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. 5. 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. 6. Respondents, now and for some time last past, have manufactured for introduction into commerce, introduced into commerce, sold, transported, distributed, delivered for shipment, shipped and offered for sale in commerce, as "commerce" is defined in said Wool Products Labeling Act of 1939, wool products as "wool product" is defined therein.

PAR. 7. Certain of said wool products were further misbranded by respondents in that they were not stamped, tagged, labeled, or otherwise identified as required under the provisions of Section 4(a) (2) of the Wool Products Labeling Act of 1939 and in the manner and form as prescribed by the Rules and Regulations promulgated under said Act.

Among such misbranded wool products, but not limited thereto, were certain wool products, namely, carpet yarns with labels on or affixed thereto, which failed to disclose the percentage of the total fiber weight of the said wool product, exclusive of ornamentation not exceeding 5 per centum of said total fiber weight, of (1) wool; (2) reprocessed wool; (3) reused wool; (4) each fiber other than wool, when said percentage by weight of such fiber was 5 per centum or more; (5) the aggregate of all other fibers.

PAR. 8. The acts and practices of the respondents as set forth in Paragraph Seven 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 commerce, within the intent and meaning of the Federal Trade Commission Act.

PAR. 9. Respondents are now, and for some time last past, have been engaged in the offering for sale, sale, and distribution of certain products, namely carpet yarns, to customers engaged in the manufacture and distribution of carpets. In the course 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 Alabama to purchasers 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. 10. Respondents in the course and conduct of their business, as aforesaid, have made statements on invoices and shipping memoranda to their customers misrepresenting the character and fiber content of certain of their said products. Among such misrepresentations, but not limited thereto, were statements representing certain products to be "30% Wool, 30% Nylon, 30% Acrylic, 10% undetermined fiber," whereas said fabrics contained substantially different fibers and quantities of fibers than represented.

PAR. 11. The acts and practices set out in Paragraph Ten had and now have the tendency and capacity to mislead and deceive the purchasers of said products as to the true content thereof and to cause said purchasers to misbrand products, manufactured by them in which said materials were used.

PAR. 12. The acts and practices of the respondent set out in Paragraph Ten 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 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 Textile Fiber Products Identification Act and the Wool Products Labeling Act of 1939; 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 respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Southern Yarns, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Alabama, with its office and principal place of business located at Albertville, Alabama.

Respondent Roger R. Ferry 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 Southern Yarns, Inc., a corporation, and its officers, and Roger R. Ferry, 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, 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 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 falsely or deceptively stamping, tagging, labeling, invoicing, advertising or otherwise identifying such products as to the name or amount of constituent fibers contained therein.

B. Failing to maintain and preserve proper records

showing the fiber content of textile fiber products manufactured by said respondents, as required by Section 6 of the Textile Fiber Products Identification Act and Rule 39 of the Rules and Regulations promulgated thereunder.

It is further ordered, That respondents Southern Yarns, Inc., a corporation, and its officers, and Roger R. Ferry, 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 manufacture for introduction into commerce, the introduction into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment or shipment in commerce, of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by failing to securely affix to, or place on, each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by Section 4(a) (2) of the Wool Products Labeling Act of 1939.

It is further ordered, That respondents Southern Yarns, Inc., a corporation, and its officers, and Roger R. Ferry, 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 offering for sale, sale, or distribution of carpet yarns, or other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting the character or amounts of constituent fibers contained in such products on invoices or shipping memoranda applicable thereto, or in any other manner.

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.