

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 7
OF THE CLAYTON ACT

Docket C-1794. Complaint, Sept. 23, 1970—Decision, Sept. 23, 1970

Consent order requiring a major producer of rope synthetic fiber, located in Wilmington, Del. (Hercules), to divest all stock and share capital it acquired from a major distributor of hard and synthetic fiber rope, located in Auburn, N.Y. (Columbian), by selling such shares within 90 days to Columbian; that Hercules refrain for 10 years from acquiring any stock of any domestic concern which in the prior year had over \$500,000 worth of purchases of polypropylene resin without 45 days notice to the Federal Trade Commission; and that Columbian refrain from acquiring any stock of any domestic rope producer without prior approval of the Federal Trade Commission.

COMPLAINT

The Federal Trade Commission, having reason to believe that Hercules Incorporated and Columbian Rope Company, corporations and respondents herein, have violated the provisions of Section 7 of the Clayton Act, as amended (15 U.S.C. § 18); therefore pursuant to Section 11 of the Clayton Act, as amended (15 U.S.C. § 21) it issues this Complaint, stating its charges in that respect as follows:

I. Definitions

1. For the purposes of this complaint, the following definitions are applicable:

(a) "Fiber"—any tough substance composed of thread-like material whether of animal, vegetable, mineral or man-made origin, especially substances capable of being spun or woven.

(b) "Yarn"—a number of fibers twisted together.

(c) "Strand" (sometimes called "thread")—two or more yarns twisted together in the opposite direction to that of the yarn itself.

(d) "Rope"—a longitudinally extended element composed of three or more strands, each strand composed of two or more yarns.

(e) "Wire rope"—a type of rope consisting of a center, which acts as a base on cushion, around which wire strands are twisted.

(f) "Centers" (sometimes called "cores")—very high quality non-metallic fiber rope produced to exacting specifications, used in the manufacture of wire rope.

(g) "Polypropylene resin"—a synthetic product formed by the polymerization of purified propylene.

(h) "Fiber grade" (sometimes called "filament grade") polypropylene resin—that grade of polypropylene resin suitable for commercial use in the production of filaments and fibers.

(i) "Synthetic fiber"—fibers of man-made origin, such as polypropylene, nylon and polyester (Dacron). "Synthetic rope" rope made from synthetic fibers.

(j) "Hard fiber"—vegetable fibers made from Abaca ("Manila") or Agave ("sisal"). "Hard fiber rope"—rope made from hard fibers.

II. The Respondents

A. Hercules Incorporated

2. Respondent Hercules Incorporated ("Hercules"), is a corporation organized and existing under the laws of the State of Delaware,

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with its principal office and principal place of business located at 910 Market Street, Wilmington, Delaware.

3. Hercules is a diversified firm which includes nine operating departments and a central research organization. Through its polymer department, it has become one of the nation's leading producers of plastics resins. Total revenue from all of Hercules' operations was \$532 million during 1965, of which plastics sales accounted for approximately \$48 million of this revenue.

4. Hercules was the first company in the United States to enter into the commercial production of polypropylene. Since its entry into the production of that resin in 1958, two years ahead of any other corporation, it has maintained a substantial share of the polypropylene market. Hercules' total shipments of polypropylene resin and polypropylene yarn and fiber each represent approximately 44 percent of total United States shipments of these products in 1963. In 1963, Hercules' total shipments of polypropylene resin amounted to 58 million pounds valued at \$16 million. Hercules' total production of polypropylene yarn and fiber amounted to 8 million pounds valued at \$6.5 million during 1963.

5. Hercules is and for many years has been extensively engaged in the sale and shipment across state lines of many chemical and other products, including polypropylene. Hercules is and was at the time of the acquisitions challenged herein, engaged in "commerce" within the meaning of the Clayton Act.

B. Columbian Rope Company

6. Respondent Columbian Rope Company ("Columbian") is a corporation organized and existing under the laws of the State of New York, with its principal office and principal place of business located at 309 Genesee Street, Auburn, New York.

7. Columbian produces and sells rope and related products made of natural and synthetic fibers. Columbian's consolidated net sales in the United States in 1964 were over \$11 million and, as of December 31, 1964, its total domestic assets were \$10 million and its domestic net worth was \$9 million. Columbian owns or leases factories in Auburn and Maspeth, New York; Plymouth, Massachusetts; New Orleans, Louisiana; and Newport News, Virginia.

8. Columbian ranked second in 1963 among producers of hard and synthetic fiber rope, accounting for 19 percent of all domestic shipments. Columbian's total shipments of hard and synthetic fiber rope during 1963 amounted to 15 million pounds valued at \$8.5 million.

9. Columbian is one of the largest domestic producers of rope manufactured from polypropylene and other synthetic fibers. It maintains its own facilities for the extrusion of polypropylene resin into fibers. In 1963, it accounted for approximately 14 percent of all domestic shipments of synthetic rope.

10. Columbian is and for many years has been extensively engaged in the sale and shipment across State lines of rope and other products and has been extensively engaged in the purchase across State lines of fibers, polypropylene resin and other materials used in the production of rope. Columbian is and was at the time of the acquisitions challenged herein, engaged in "commerce" within the meaning of the Clayton Act.

III. The Acquisitions

A. Assets Acquired by Columbian Rope Company from Plymouth Cordage Company

11. On October 1, 1965, Columbian purchased for approximately \$6 million, all the assets of the domestic rope and Plymkraft divisions of Plymouth Cordage Company ("Plymouth"). The assets acquired included the land, plants, machinery, and inventory at Plymouth, Massachusetts; Plymouth trademarks and patents; and the right to use the name "Plymouth." The assets acquired represented substantially all of Plymouth's domestic rope operations, but did not include any part of Plymouth's Canadian rope-making subsidiary.

12. In 1963, Plymouth ranked first among domestic producers of hard and synthetic fiber rope, accounting for 20 percent of all domestic shipments. Plymouth's total shipments of hard and synthetic fiber rope during 1963 amounted to 16 million pounds valued at over \$8 million.

13. Plymouth also was one of the nation's largest producers of synthetic rope. During 1963, it accounted for 17 percent of this market, with shipments of synthetic rope totaling 2.6 million pounds valued at \$3 million. Plymouth also operated facilities for extrusion of polypropylene resin into filaments for use in the production of rope.

14. Prior to October 1, 1965, when it sold the assets described in Paragraph 11, above, Plymouth had been extensively engaged in the sale and shipment across State lines of rope and other products and had been extensively engaged in the purchase across State lines of fibers, polypropylene resin and other materials used in the production of rope. Plymouth was engaged in "commerce" within the

meaning of the Clayton Act at the time it sold the above-described assets to Columbian Rope Company.

B. The Acquisition By Hercules Incorporated of a Stock Interest in Columbian Rope Company

15. Hercules cooperated closely with Columbian in Columbian's acquisition of the Plymouth assets described in Paragraph 11, above. On June 25, 1965, Hercules agreed to lend Columbian \$4 million at 4½ percent interest, repayable on January 1, 1966, for the purchase of the assets acquired from Plymouth. In connection with this loan agreement, Hercules agreed to buy and Columbian agreed to sell to Hercules 34 percent of the authorized capital stock of Columbian for \$4 million. This loan agreement further provided that Hercules would be relieved of its obligation to purchase the Columbian stock if Columbian did not within six months increase, by at least 40 percent, the manufacturing and marketing capabilities of its rope and related products.

16. On October 1, 1965, Columbian acquired the assets of Plymouth described in Paragraph 11, above. On November 5, 1965, Columbian transmitted 20,200 shares, amounting to 34 percent of its capital stock, to Hercules in satisfaction of the loan agreement described in Paragraph 15, above. Hercules thereby became a substantial shareholder in Columbian.

IV. Nature of Trade And Commerce

A. Hard and Synthetic Fiber Rope

17. The rope industry is one of America's oldest industries, closely tied to the nation's commercial and maritime history. Traditionally, rope has been manufactured from hard and soft vegetable fibers, such as manila, sisal, hemp and cotton.

18. Synthetic fibers were first introduced into the rope industry in the form of nylon and, later, Dacron, in the 1940's and have since become increasingly important factors in rope manufacture. High density polyethylene and polypropylene were introduced into the industry in 1958.

19. The dollar value of domestic shipments of rope, both of hard and synthetic fiber, rose to \$45 million in 1963 from \$36 million in 1958, an increase of 24 percent.

20. Rope produced from synthetic fibers weighs less, exhibits greater strength per pound and has a longer useful life than rope

produced from natural fibers. For these reasons, synthetic fibers will probably eventually replace natural fibers as the major material resource used in the manufacture of rope. Increased use of synthetics has contributed to the decline in the total poundage of rope shipped domestically. For example, the total domestic rope poundage shipped declined from 97 million pounds in 1958 to 81 million pounds in 1963.

21. The hard and synthetic fiber rope industry is highly concentrated. There are four major factors in the rope industry: Columbian, Wall Rope Works, American Manufacturing Company and Tubbs Cordage Company. These four firms in 1963 accounted for 70 percent of all hard and synthetic fiber rope shipped in the United States. These same four firms also accounted for virtually all of domestic sales of fiber centers for wire rope in 1963.

22. Prior to October 1, 1963, Plymouth and Columbian were leading producers and sellers of rope. The combined shipments in 1963 of hard and synthetic fiber rope by Columbian and Plymouth represented 39 percent of all such domestic shipments. Columbian and Plymouth competed with each other throughout the United States. The acquisition of the assets acquired from Plymouth made Columbian, by far, the leading domestic producer and seller of hard and synthetic fiber rope.

B. Polypropylene Resin and Fiber

23. Polypropylene is the leading synthetic fiber used in the production of rope. The rope industry anticipates that polypropylene will become the major raw material used for rope production in the years to come. Rope produced from polypropylene is both stronger and has a considerable longer life than rope produced from hard fiber. Additionally, the fact that polypropylene rope floats is important to marine users. Although the cost per pound of polypropylene rope may be double that of hard fiber rope, the above characteristics make it more economical to the user than hard fiber rope. Polypropylene used by rope manufacturers is generally purchased in resin form and extruded into a monofilament fiber by the rope manufacturer.

24. Polypropylene resin was developed in 1954 in Italy. Hercules was the first company to produce polypropylene resin in the United States, beginning commercial production in this country in 1958. Production of polypropylene resin reached 270 million pounds in 1964.

25. Fiber grade polypropylene resin differs substantially in compo-

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sition and characteristics from polypropylene resin produced for other uses. Specialized and costly additives must be blended into the resin to produce the necessary stability, color and other unique characteristics necessary for the manufacture of fibers. Polypropylene resin for fiber usage sells at higher price than polypropylene resin for other uses.

26. In 1964 there were nine companies engaged in production of polypropylene resin in the United States. In 1964, the four largest producers accounted for 74 percent of total U.S. production of polypropylene resin. Barriers to entry into the production of polypropylene resin are high; substantial polyolefin sales and technological know-how are required in addition to substantial amounts of capital.

27. Further barriers to entry into the production of polypropylene resin arise from the significant degree of vertical integration already present in the processing and fabrication of this resin. One of the principal uses for polypropylene resin is the manufacture of filament and fiber. Between 1962 and 1965 polypropylene producers made six partial or complete acquisitions of companies in the fiber field.

V. Violations Charged

28. The effect of the acquisition by Columbian of certain assets of Plymouth Cordage Company, as set forth in Paragraph 11, above, may be substantially to lessen competition or to tend to create a monopoly in the United States in the production and sale of rope, synthetic rope, polypropylene rope, and hard fiber rope, in violation of Section 7 of the Clayton Act, in that actual and potential competition between Columbian and Plymouth has been eliminated and already high levels of concentration may be substantially increased and the possibility of deconcentration lessened.

29. The effect of the acquisition by Hercules of part of the capital stock of Columbian, as described in Paragraphs 15 and 16, above, may be substantially to lessen competition or to tend to create a monopoly in the United States in the production and sale of polypropylene resin and fiber grade polypropylene resin and in the production and sale of rope, synthetic rope, polypropylene rope and hard fiber rope in violation of Section 7 of the Clayton Act, in the following ways, among others:

- (a) Actual and potential competition in the production and sale of polypropylene resin and fiber grade polypropylene resin has been and may be foreclosed;
- (b) The trend toward vertical integration between polypropylene

resin producers and users of polypropylene resin may be accelerated, thus further foreclosing actual competition in the sale of polypropylene resin, increasing the barriers to entry for potential polypropylene producers and inducing further mergers and consolidations; and

(c) But for the agreement by which Hercules acquired 34 percent of the voting stock of Columbian, Columbian probably would not have acquired the Plymouth assets described in Paragraph 11, above.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of Section 7 of the Clayton Act, as amended, and the respondents having each 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 complaint; 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 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 alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having considered the agreement and having accepted same, and the agreement containing consent order having thereupon been placed 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 in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Hercules Incorporated is a corporation organized and existing under the laws of the State of Delaware, with its principal office and principal place of business located at 910 Market Street, Wilmington, Delaware.

2. Respondent Columbian Rope Company is a corporation organized and existing under the laws of the State of New York, with its principal office and principal place of business located at 309 Genesee Street, Auburn, New York.

3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents.

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ORDER

I.

It is ordered, That respondent Hercules Incorporated ("Hercules"), a corporation, and its officers, directors, agents, representatives, employees, subsidiaries, affiliates, successors, and assigns, within ninety (90) days from the effective date of this order, purchase such shares of Columbian held by Hercules.

II

It is further ordered, That Hercules, from the effective date of this order shall cease and desist from acquiring, without the prior approval of the Federal Trade Commission, the whole or any part of the stock, share capital or assets of respondent Columbian.

III

It is further ordered, That Hercules, for a period of ten (10) years from the effective date of this order, shall cease and desist from acquiring, without forty-five (45) days prior notification to the Federal Trade Commission, the whole or any part of the stock or share capital of any concern in the United States, which in the year prior to the acquisition had purchases of polypropylene resin in excess of five-hundred thousand dollars (\$500,000), or any part of the assets of such concern insofar as such assets have been or are being used in the production of polypropylene products.

IV

It is further ordered, That from the effective date of this order, respondent Columbian shall cease and desist from acquiring, directly or indirectly, without the prior approval of the Federal Trade Commission, the whole or any part of the stock, share capital or assets of any Company involved in the production and sale of rope in the United States.

The provisions of Paragraph IV above also apply to any arrangement pursuant to which respondent Columbian obtains, in whole or in part, the market share in the United States of any concern engaged in the manufacture and sale of rope (a) through such concern discontinuing the manufacture or production of rope under its own trade name or label and thereafter distributing such product under any trade name or label owned by Columbian or (b) through such concern discontinuing the manufacture of rope and thereafter

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transferring or in any other way making available to respondent Columbian, customer lists or customer accounts.

As used in this order, "rope" means a "longitudinally extended element composed of at least three and not more than eight strands, each strand composed of two or more yarns; 'strand' means two or more yarns twisted together in the opposite direction of that of the yarn itself; and 'yarn' means a number of fibers twisted together."

V

It is further ordered, That respondent Hercules shall within sixty (60) days from the effective date of this order and at such further times as the Commission may require, submit to the Federal Trade Commission a detailed written report of its actions, plans, and progress in complying with the provisions of this order.

VI

It is further ordered, That respondent Columbian shall within sixty (60) days from the effective date of this order and at such further times as the Commission may order, submit to the Federal Trade Commission a detailed written report of its actions, plans and progress in complying with the terms of this order.

VII

It is further ordered, That respondent Hercules shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent which may affect compliance obligations arising out of this order such as dissolution, assignment or sale, resulting in the emergence of a corporate successor, the creation or dissolution of subsidiaries, or any other such change in the corporate respondent.

VIII

It is further ordered, That respondent Columbian shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent which may affect compliance obligations arising out of this order such as dissolution, assignment or sale, resulting in the emergence of a corporate successor, the creation or dissolution of subsidiaries, or any such change in the corporate respondent.

IX

It is further ordered, That respondent Hercules and Columbian shall forthwith distribute a copy of this order to each of their respective operating divisions.

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IN THE MATTER OF

AMBASSADOR INTERNATIONAL, INC.,
DOING BUSINESS AS AMBASSADOR LEATHER GOODS, ET AL.

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

Docket C-1795. Complaint, Sept. 23, 1970—Decision, Sept. 23, 1970

Consent order requiring a Scottsdale, Arizona, mail-order distributor of various leather and nonleather products to cease advertising nonleather products as made of leather and failing to disclose the nature and extent of its guarantees.

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 Ambassador International, Inc., a corporation doing business as Ambassador Leather Goods, and Morris Holiff, also known as Murray Hall, and Joyce Holiff, also known as Joyce Hall, individually and as officers of said corporation, hereinafter referred to as respondents, have violated 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 Ambassador International, Inc., doing business as Ambassador Leather Goods, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Arizona, with its principal office and place of business located at 350 North Hayden Road, in the city of Scottsdale, State of Arizona.

Respondents Morris Holiff, also known as Murray Hall, and Joyce Holiff, also known as Joy Hall, are individuals and 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. Their address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and mail order distribution of various leather and non-leather products, including but not limited to wallets, purses and handbags, to the public.

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused,