

Docket C-1839. Complaint, Jan. 4, 1971—Decision, Jan. 4, 1971

Consent order requiring a Denver, Colo., wholesaler of upholstery and drapery fabrics to cease and desist from misbranding 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 the Pawley Company, a corporation, and Max Weisbly and Ben Hailpern, individually and as officers 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 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 The Pawley Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Colorado.

Respondents Max Weisbly and Ben Hailpern are officers of the corporate respondent. They formulate, direct and control the acts, practices and policies of said corporate respondent, including the acts and practices hereinafter set forth.

Respondents are wholesalers of upholstery and drapery fabrics, with their office and principal place of business located at 2601 Walnut Street, Denver, Colorado.

PAR. 2. Respondents are now, and for sometime last past have been, 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. 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 textile fiber products, namely upholstery fabrics, containing more than one fiber with labels attached to samples which set forth the generic name of a particular fiber, namely nylon, in

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such a manner as to over emphasize the nylon content of the product, to detract from the required fiber content disclosure and to represent or imply, that the products were composed entirely of nylon when in truth and in fact the products contained fibers other than nylon.

PAR. 4. Certain of such textile fiber 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(b) 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 misbranded textile fiber products, but not limited thereto, were textile fiber products without labels and with labels which failed:

1. To disclose the true generic names of the fibers present; and
2. To disclose the true percentage of such fibers.
3. To disclose the name of the country where imported textile fiber products were processed or manufactured.

PAR. 5. 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:

A. Generic names of fibers were used in non-required information on labels attached to samples in such a manner as to be false, deceptive or misleading as to fiber content, and to indicate, directly or indirectly, that such textile fiber products were composed wholly or in part of a particular fiber, when such was not the case, in violation of Rule 17(d) of the aforesaid Rules and Regulations.

B. Samples, swatches and specimens of textile fiber products subject to the aforesaid Act, which were used to promote or effect sales of such textile fiber products, were not labeled to show their respective fiber content and other information required by Section 4(b) of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder, in violation of Rule 21(a) of the aforesaid Rules and Regulations.

PAR. 6. 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 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 Division of Textiles and Furs, Bureau of Consumer Protection 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 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 The Pawley Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Colorado.

Respondents Max Weisbly and Ben Hailpern are officers of the corporate respondent. They formulate, direct and control the acts, practices and policies of said corporate respondent.

Respondents are wholesalers of upholstery and drapery fabrics with their office and principal place of business located at 2601 Walnut Street, Denver, Colorado.

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 The Pawley Company, a corporation, and its officers, and Max Weisbly and Ben Hailpern, indi-

vidually 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, 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:

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 the constituent fibers contained therein.
2. Failing to affix a stamp, tag, label or other means of identification to each such textile fiber product showing in a clear, legible and conspicuous manner each element of information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act.
3. Using the generic names of fibers in non-required information on any label in such a manner as to be false, deceptive or misleading as to fiber content or to indicate, directly or indirectly, that such textile fiber products are composed wholly or in part of a particular fiber, when such is not the case.
4. Failing to affix labels showing the respective fiber content and other required information to samples, swatches, and specimens of textile fiber products subject to the aforesaid Act which are used to promote or effect sales of such textile fiber products.

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

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It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That 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.