

Docket C-1915. Complaint, May 10, 1971—Decision, May 10, 1971

Consent order requiring a New Brunswick, N. J., manufacturer of industrial and hospital items, including nurses' caps, to cease violating the Flammable Fabrics Act by importing and distributing any fabric which fails to conform to the standards of said Act.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Johnson & Johnson, a corporation, doing business as Chicopee Manufacturing Company and under its own name or any other name or names, and Chicopee Mills, Inc.,

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a corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Flammable Fabrics Act, as amended, 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 Johnson & Johnson is a corporation, doing business as Chicopee Manufacturing Company and under its own name among others. Said corporation is organized, existing and doing business under and by virtue of the laws of the State of New Jersey. Chicopee Mills Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

Respondents are engaged in the manufacture, sale and distribution of a broad range of industrial, consumer and hospital items in which are included products and fabrics subject to the Flammable Fabrics Act, as amended. Among the products so sold and distributed were nurses' caps and among the fabrics were those used in the manufacture of infants' shirts, nurses' caps and other hospital garments. The business address of the above-named respondents is 501 George Street, New Brunswick, New Jersey.

PAR. 2. Respondents are now and for some time last past have been engaged in the manufacture, sale and offering for sale in commerce, and in the importation into the United States, and have introduced, delivered for introduction, transported and caused to be transported in commerce, and have sold or delivered after sale or shipment in commerce, products and fabrics; and have manufactured for sale, sold, or offered for sale, products made of fabrics or related materials which have been shipped and received in commerce, as "commerce," "product," "fabric" and "related material" are defined in the Flammable Fabrics Act, as amended, which products, fabrics and related materials fail to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the Flammable Fabrics Act, as amended.

Among such fabrics mentioned hereinabove, but not limited thereto, was a fabric described as Masslin brand non-woven fabric and designated as "Style S400 6260 39" Pink.

Among such products, but not limited thereto, were nurses' caps.

PAR. 3. Respondents furnished a false guaranty that certain of their fabrics were not so highly flammable as to be dangerous when worn by individuals, when respondents in furnishing such guaranty

had reason to believe that the fabric so falsely guaranteed might be introduced, sold or transported in commerce, in violation of Section 8(b) of the Flammable Fabrics Act, as amended.

PAR. 4. The aforesaid acts and practices of respondents were and are in violation of the Flammable Fabrics Act, as amended, and the Rules and Regulations promulgated thereunder, and as such constituted, and now constitute unfair methods of competition and 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 heretofore determined to issue its complaint charging the respondents named in the caption hereof with the violation of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended, and the respondents having 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 order; 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 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 Johnson & Johnson is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey. Said firm does business under its own name and as Chicopee Manufacturing Company, Chicopee Mills, Inc., is a corporation organized, existing and doing business under, and by virtue of the laws of the State of New York.

Respondents are engaged in the manufacture of articles of wearing apparel including nurses' caps. Respondents are further engaged in the manufacture, importation and sale of fabrics, including, but not limited to, fabrics that were sold for use in the manufacture of infants' shirts, nurses' caps and other hospital garments. The business address of said respondents is 501 George Street, New Brunswick, New Jersey.

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 the respondents Johnson & Johnson, a corporation, doing business as Chicopee Manufacturing Company and under its own name or any other name or names, and its officers, and Chicopee Mills, Inc., a corporation, and its officers, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any wearing apparel, or fabric or related material which fabric or related material may reasonably be expected to be used in such wearing apparel; or manufacturing for sale, selling or offering for sale any wearing apparel made of fabric or related material which has been shipped or received in commerce, as "commerce," "fabric," "related material" and "wearing apparel" are defined in the Flammable Fabrics Act, as amended, which wearing apparel, fabric or related material fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondents, if they have not done so heretofore, notify all of their customers who have purchased or to whom have been delivered the fabrics or wearing apparel made from said fabrics, which gave rise to this complaint of the flammable nature of such fabrics or wearing apparel and effect recall of such fabrics or wearing apparel from said customers.

It is further ordered, That the respondents herein, if they have not done so heretofore, either process the fabrics which gave rise to this complaint and any wearing apparel made from said fabrics so as to bring them within the applicable flammability standards

of the Flammable Fabrics Act, as amended, or destroy said fabrics or any wearing apparel made therefrom.

It is further ordered, That respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission an interim special report in writing setting forth the respondents' intention as to compliance with this order. This interim special report shall also advise the Commission fully and specifically concerning the identity of the fabrics which gave rise to the complaint and any wearing apparel made from said fabrics, (1) the number of such fabrics or articles of wearing apparel in inventory, (2) any action taken and any further actions proposed to be taken to notify customers of the flammability of such fabrics or articles of wearing apparel and of the results of such actions, (3) any disposition of such fabric or articles of wearing apparel since December 1969 and (4) any action taken or proposed to be taken to flameproof or destroy such fabrics or articles of wearing apparel and the results of such action. Such report shall further inform the Commission whether respondents have in inventory any fabric, product or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton or combinations thereof in a weight of two ounces or less per square yard, or having a raised fiber surface made of cotton or rayon or combinations thereof. Respondents will submit samples of any such fabric, product or related material with this report. Samples of the fabric, product or related material shall be of no less than one square yard of material.

It is further ordered, That respondents Johnson & Johnson, a corporation, doing business as Chicopee Manufacturing Company and under its own name or any other name or names and its officers, and Chicopee Mills Inc., a corporation, and its officers, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from furnishing a guaranty under the Flammable Fabrics Act, as amended, with respect to any product, fabric or related material which guaranty is false and when respondents have reason to believe that such product, fabric or related material may be introduced, sold, or transported in commerce.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of successor corporations, the creation or dissolution of subsidiaries

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or any other change in the corporations which may affect compliance obligations arising out of the order.

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

It is further ordered, That respondent 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.