

Consent order requiring a New York City retailer and wholesaler of fabrics to cease violating the Flammable Fabrics Act by importing and selling any fabric which fails to conform to the standards of said Act. 7/10/70

Decision and Order

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 Art-Max Fabrics, Inc., a corporation, and Arthur Kahn and Nathan Farbstein, 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 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 Art-Max Fabrics, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. Respondents Arthur Kahn and Nathan Farbstein are officers of said corporate respondent. They formulate, direct and control the acts, practices and policies of said corporation.

The respondents are retailers and wholesalers of fabrics, with their office and principal place of business located at 250 West 40th Street, New York, New York.

PAR. 2. Respondents now and for some time last past have sold and offered for sale, in commerce, 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, fabrics, as the terms "commerce" and "fabric" are defined in the Flammable Fabrics Act, as amended, which fabrics 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 was Style 9800 100% cotton white organdy fabric and Style 11375 lace fabric, both imported by Stern & Stern, Inc.

PAR. 3. 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 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 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 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 Flammable Fabrics Act, as amended; 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 Art-Max Fabrics, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

Respondents Arthur Kahn and Nathan Farbstein are officers of said corporate respondent. They formulate, direct and control the acts, practices and policies of said corporate respondent.

Respondents are retailers and wholesalers of fabrics with their office and principal place of business located at 250 West 40th Street, New York, New York.

2. The Federal Trade Commission has jurisdiction of the subject matter of the proceeding and of the respondents and the proceeding is in the public interest.

ORDER

It is further ordered, That respondents Art-Max Fabrics, Inc., a corporation, and its officers, and Arthur Kahn and Nathan Farbstein, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from selling or

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 product, fabric or related material; or selling or offering for sale, any product made of fabric or related material which has been shipped or received in commerce as the terms "commerce," "product," "fabric" and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material fails to conform to an applicable standard under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the fabrics which gave rise to this complaint of the flammable nature of said fabrics, and effect recall of said fabrics from such customers.

It is further ordered, That the respondents herein either process the fabrics which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said fabrics.

It is further ordered, That the respondents herein shall, within ten (10) days after service upon them of this order file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the fabrics which gave rise to the complaint, (2) the amount of said fabrics in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said fabrics and effect the recall of said fabrics from customers, and of the results thereof, (4) any disposition of said fabrics since April 13, 1970, and (5) any action taken or proposed to be taken to bring said fabrics into conformance with the applicable standard of flammability under the Flammability Fabrics Act, as amended, or destroy said fabrics, and the results of such action. Such report shall further inform the Commission as to whether or not respondents have in inventory any product, fabric, or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton or any other material or combinations thereof in a weight of two ounces or less per square yard, or any product, fabric or related material having a raised fiber surface. Respondents shall submit samples of not less than one square yard in size of any such product, fabric, or related material with this report.

It is further ordered, That the respondents notify the Commission

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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.

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 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.