

BARCLAY HOME PRODUCTS, INC., ET AL.

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

*Docket C-1971. Complaint, July 12, 1971—Decision, July 12, 1971*

Consent order requiring a New York City retail seller of general merchandise, including mattress pads, sheets, and pillow cases to cease representing that such products are flame retardant unless all exposed parts of such articles have been treated with a retardant finish.

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 Barclay Home Products, Inc., and Barclay Home Products Sales Corporation, corporations, and Alex Buchman, individually and as president of said corporations, sometimes hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereto would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondents Barclay Home Products, Inc., and Barclay Home Products Sales Corporation, are corporations, organized, existing and doing business under and by virtue of the laws of the State of New York. Individual respondent Alex Buchman is presi-

dent of said corporate respondents. Respondent Alex Buchman formulates, directs and controls the acts, practices and policies of the said corporate respondents. Barclay Home Products Sales Corporation, 245 Fifth Avenue, New York, New York, is the selling agent for Barclay Home Products, Inc., 100 North Mohawk Street, Cohoes, New York, which performs the manufacturing and invoicing functions.

PAR. 2. Respondents in the course and conduct of their business have been, and are now, engaged in the sale, advertising and offering for sale in commerce of merchandise they ship or cause to be shipped, when sold, from the State of New York to purchasers located in various other states and maintain and have maintained a course of trade in said merchandise in commerce as "commerce" is defined in the Federal Trade Commission Act. Respondents' volume of business in the retail sale of general merchandise is and has been substantial. Among such merchandise so sold and shipped are mattress pads.

PAR. 3. Respondents are now, and at all times mentioned herein, have been in substantial competition in commerce with other corporations, firms and individuals engaged in the sale and distribution of mattress pads.

PAR. 4. In the course and conduct of their business in commerce, and for the purpose of inducing the purchase of said mattress pads, respondents have made representations in the packaging, labeling and advertising of said product with respect to its flame retardant characteristics.

Typical and illustrative of the statements and representations in said advertising material, are the following:

**NO BURN**

**DURABLE FLAME RETARDANT**

This pad has a durable treated flame retardant top which will protect you even in the event of accidental contact with open flame

**DURABLE FLAME RETARDANT WON'T WASH OUT**

**RESISTS FLAME, FLARE AND SMOULDERING**

**FLAME RETARDANT MATTRESS PROTECTOR PAD FITTED**

PAR. 5. That said advertising material did not clearly and conspicuously disclose that only the top and skirt portions of said mattress pads had been treated with the flame retardant finish; that the bottom, dacron polyester filling, as well as threads running throughout the quilted fabric and binding had not been treated so as to provide a flame retardant finish.

PAR. 6. Through the use of the aforesaid representations and oth-

ers of similar import and meaning but not specifically set out herein, respondents represent and have represented, directly or by implication, that the said mattress pads are completely flame retardant and thus provide a degree of safety and protection when in fact the only portions which have been treated with the flame retardant finish have been the top and skirt portions thereof.

PAR. 7. That said product consists of a dacron polyester filling inserted between two identical layers of an all cotton quilted fabric with a skirt attached thereto by means of a binding sewn around the edges.

PAR. 8. That said product, by virtue of its construction and appearance in the course of normal use, may be reversed thus exposing that portion of the mattress pad which has not been treated with the flame retardant finish.

PAR. 9. In truth and in fact, said representations mislead prospective purchasers of said mattress pads as to the extent of protection afforded.

PAR. 10. The use by respondents of the foregoing false, misleading and deceptive representations set forth in Paragraph Four above has had, and now has, the tendency and capacity to mislead and deceive members of the public into the purchase of said product under the erroneous and mistaken belief that such statements and representations are true.

PAR. 11. The aforesaid acts and practices of respondents as herein alleged are all to the prejudice and injury of the public and of respondents' competitors and 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 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 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 Section 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. Respondents Barclay Home Products, Inc., and Barclay Home Products Sales Corporation, are corporations organized, existing and doing business under and by virtue of the laws of the State of New York with their offices and principal places of business respectively located at 100 North Mohawk Street, Cohoes, New York, and 245 Fifth Avenue, New York, New York.

2. Respondent Alex Buchman is president of both corporate respondents and formulates, directs and controls the acts, practices and policies of said corporate respondents.

3. 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 Barclay Home Products, Inc., and Barclay Home Products Sales Corporation, corporations, and respondent Alex Buchman, individually and as President of said corporate respondents, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of mattress covers, mattress pads, sheets and pillow cases, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing directly or indirectly that said products are flame retardant, or have been treated with a flame retardant finish, and from utilizing any words or depictions of similar import or meaning in connection therewith, unless all uncovered or exposed parts (except sewing threads) will retard and resist flame, flare and smouldering, or have been treated with a finish which will retard and resist flame, flare and smouldering.

*It is further ordered,* That in all instances where respondents represent said products to be flame retardant or treated with a flame re-

tardant finish, that warnings be provided in or on the packaging in immediate conjunction with said representations and in type or lettering of equal size and conspicuousness, and on a label affixed to the products securely and with sufficient permanency to remain in a conspicuous, clear and plainly legible condition, of any danger from flammability which may result if these products be dry cleaned or washed by other than the recommended means or in excess of a stated number of times.

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

*It is further ordered,* That respondents deliver a copy of this order to cease and desist to all personnel of respondents responsible for the preparation, creation, production or publication of advertising, packaging or labeling of all products covered by this order.

*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 of their compliance with this order.

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IN THE MATTER OF

PRF CORPORATION DOING BUSINESS AS PERFECT FIT  
INDUSTRIES, INC.

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

*Docket C-1972. Complaint, July 12, 1971—Decision, July 12, 1971*

Consent order requiring a New York City manufacturer and seller of home furnishings, including mattress pads, sheets and pillow cases to cease representing that such products are flame retardant unless all exposed parts of such articles have been treated with a retardant finish.