

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE TEXTILE FIBER PRODUCTS IDENTI-
FICATION ACTS

Docket C-2011. Complaint, Aug. 17, 1971—Decision, Aug. 17, 1971

Consent order requiring a Dalton, Ga., wholesaler of textile fiber products, namely carpet yarns, to cease misbranding its textile fiber products, failing to maintain adequate records, and misusing the word "mills" as part of its trade name.

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 Fibertex Mills, Inc., a corporation, and Irving N. Funk, individually and as an officer 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 Fibertex Mills, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia. The respondent corporation maintains its office and principal place of business at 1108 North Hamilton Street, Dalton, Georgia.

Respondent Irving N. Funk is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of the corporate respondent including those hereinafter referred to. His address is the same as that of the corporate respondent.

Respondents are engaged in the wholesaling of textile fiber products, namely carpet yarns.

PAR. 2. Respondents are now and for some time last past have been engaged in the introduction, delivery for introduction, manufacture 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, either in their original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber products" are defined in the Textile Fiber Products Identification Act.

PAR. 3. Certain of said textile fiber products were 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 as 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.

PAR. 4. Respondents have failed to maintain and preserve proper records showing the fiber content of their textile fiber products, in that said respondents substituted stamps, tags, labels, or other identification pursuant to Section 5(b) of the Textile Fiber Products Identification Act and failed to maintain and preserve such records as would show the information set forth on the stamps, tags, labels or other identification removed by them, together with the names of the person or persons from whom such textile fiber products were received, in

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accordance with Rule 39(b) of the rules and regulations and Section 6(b) of the Textile Fiber Products Identification Act.

PAR. 5. 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 and practices, in commerce, under the Federal Trade Commission Act.

PAR. 6. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said products, including carpet yarn, when sold, to be shipped from their place of business in the State of Georgia to purchasers thereof located in various other States of the United States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 7. In the conduct of their business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of products of the same general kind as that sold by respondents.

PAR. 8. In the course and conduct of their business, the aforesaid respondents, on their invoices, refer to the corporate respondent as "Fibertex Mills, Inc.," thus stating or implying that said corporate respondent is a manufacturer of the carpet yarn which it sells. In truth and in fact, the corporate respondent performs no manufacturing functions whatever, but operates exclusively as a wholesaler of said products. Thus the aforesaid representation is false, misleading and deceptive.

PAR. 9. There is a preference on the part of many members of the public to buy products directly from mills or factories in the belief that by doing so certain advantages accrue to them, including lower prices.

PAR. 10. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead dealers and other purchasers into the erroneous and mistaken belief that such statements and representations were, and are, true, and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 11. The aforesaid acts and practices of respondents, as herein alleged in Paragraphs Eight and Ten, were and are, all to the prejudice and injury of the public and of respondents' competitors and consti-

tuted, and now constitute, unfair and deceptive acts and practices and unfair methods of competition, in commerce, within the intent and meaning of Section 5 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 Division of Textiles and Furs 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 Section 2.34(b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Fibertex Mills, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia. Its office and principal place of business is located at 1108 North Hamilton Street, Dalton, Georgia.

Respondent Irving N. Funk is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of the corporate respondent including those hereinafter referred to. The address of Irving N. Funk is the same as that of the corporate respondent.

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 Fibertex Mills, Inc., a corporation and its officers and Irving N. Funk individually and as an officer 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, manufacture 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:

A. Misbranding such textile fiber products by 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.

B. Failing to maintain and preserve, as required by Section 6(b) of the Textile Fiber Products Identification Act, as well as Rule 39(b) of the regulations promulgated thereunder, such records of the fiber content of textile fiber products as will show the information set forth on the stamps, tags, labels, or other identification removed by respondents, together with the name or names of the person or persons from whom such textile fiber products were received, when substituting stamps, tags, labels or other identification pursuant to Section 5(b) of the Textile Fiber Products Identification Act.

It is further ordered, That respondents Fibertex Mills, Inc., a corporation, and its officers and Irving N. Funk, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of yarns or other products in commerce as "commerce" is defined in the Federal Trade Commission Act do forthwith cease and desist from:

(1) Directly or indirectly using the word "mills" or any other word or term of similar import or meaning in or as a part of

respondents' corporate or trade name or representing in any other manner that respondents perform functions of a mill or otherwise manufacture or process the yarns or other products sold by them unless or until respondents own, operate, or directly or absolutely control the mill, factory or manufacturing plant wherein said yarn or other products are manufactured.

(2) Misrepresenting in any manner that respondents have mills, factories or manufacturing plants where their products are manufactured.

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.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of the 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.

IN THE MATTER OF

IRVING BERGER TRADING AS THE MAC GREGOR
TIE COMPANY

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL TRADE COMMISSION AND THE TEXTILE FIBER PRODUCTS IDENTIFICATION ACTS

Docket C-2012. Complaint, Aug. 17, 1971—Decision, Aug. 17, 1971

Consent order requiring a New York City individual who manufactures, sells and distributes textile fiber products, including neckties, to cease misbranding