

Complaint

80 F.T.C.

IN THE MATTER OF

F. W. WOOLWORTH CO.

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

Docket C-2167. Complaint, March 6, 1972—Decision, March 6, 1972

Consent order requiring a New York City seller and distributor of textile fiber products and flammable fabrics, including ladies' pajamas, to cease violating the Textile Fiber Products Identification Act and the Flammable Fabrics Act by misbranding its textile fiber products and importing and selling any fabric which fails to conform to the standards of the Flammable Fabrics Act.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, the Flammable Fabrics Act, as amended, 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 F. W. Woolworth Co., a corporation, hereinafter referred to as respondent, has violated the provisions of said Acts and the rules and regulations promulgated under the Flammable Fabrics Act, as amended, and 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 F. W. Woolworth Co., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

Respondent is engaged in the business of the importation, sale and distribution of textile fiber products including, but not limited to, wearing apparel in the form of ladies' pajamas, with its office and principal place of business located at the Woolworth Building, New York, New York.

PAR. 2. Respondent is now and for some time last past has been engaged in the sale and offering for sale, in commerce, and in the importation into the United States, and has introduced, delivered for introduction, transported and caused to be transported in commerce, and has sold or delivered after sale or shipment in commerce, products as the terms "commerce" and "product" are defined in the Flammable Fabrics Act, as amended, which products failed 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 products mentioned hereinabove were ladies' pajamas.

PAR. 3. The aforesaid acts and practices of respondent 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.

PAR. 4. Respondent is now, and for some time last past has 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 has 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; which has 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. 5. Certain of the textile fiber products were misbranded by respondent in that they were not stamped, tagged, labeled, or otherwise identified to show each element of information required to be disclosed by 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 ladies' pajamas with labels which failed:

(1) To disclose the true percentage of the fibers present by weight; and

(2) To disclose the true generic name of one of the fibers present.

PAR. 6. Said acts and practices of the respondent as set forth in Paragraph Five 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 respondent named in the caption

hereof, and the respondent 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 respondent with violation of the Federal Trade Commission Act, the Flammable Fabrics Act, as amended, and the Textile Fiber Products Identification Act; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent 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 respondent 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 respondent has 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 F. W. Woolworth Co., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

Respondent is engaged in the business of the importation, sale and distribution of textile fiber products including, but not limited to, wearing apparel in the form of ladies' pajamas, with its office and principal place of business located at the Woolworth Building, New York, New York.

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

ORDER

It is ordered. That respondent F. W. Woolworth Co., a corporation, and its officers, and respondent's representatives agents and employees, directly or through any corporate or other device, do forthwith cease and desist from 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 ladies' pajamas; or any product, fabric or related material, imported by or manufactured under the control or direction of F. W. Woolworth Co., as the terms "commerce," "product," "fabric," or "related material" are defined in the Flammable Fabrics Act, as amended; or any other product, fabric or related material, the manufacturer of which has not furnished a guaranty under Section 8(a) of the Flammable Fabrics Act, as amended and which ladies' pajamas, products, fabrics or related material fail to conform to an applicable standard or regulation, issued, amended or continued in effect under the provisions of the aforesaid Act; *Provided, however*, nothing herein shall accord to the respondent immunity from any subsequent proceedings under Sections 3, 6(a) or 6(b) of the Flammable Fabrics Act, as amended. Further, nothing herein shall limit the authority of the Commission to extend the terms of the order to products, fabrics or related materials presently excluded from this order in any subsequent proceeding against the respondent.

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

It is further ordered, That the respondent herein either process the products 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 products.

It is further ordered, That the respondent herein shall, within ten (10) days after service upon it of this order, file with the Commission a special report in writing setting forth the respondent's intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the number of said products in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof, (4) any disposition of said products since April 16, 1971, and (5) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products, and the results of such action. Such report shall further inform the Commission as to whether or not

respondent has 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 combination thereof in a weight of two ounces or less per square yard, or any product, fabric or related material having a raised fiber surface. Upon request of the Commission the respondent shall submit samples of not less than one square yard in size of any product, fabric or related material.

It is further ordered, That respondent F. W. Woolworth Co., a corporation and its officers, and respondent's 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 misbranding textile fiber products by failing to affix labels to each such 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.

It is further ordered, That respondent 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 this 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 respondent herein shall within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

Complaint

IN THE MATTER OF

SKYLARK ORIGINALS, INC., ET AL.

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

*Docket 8771. Complaint, Nov. 27, 1968—Decision, March 9, 1972 **

Order requiring an Asbury Park, N.J., corporation selling ladies' clothing and wigs to cease misrepresenting the prices at which their merchandise has been sold and the savings available to purchasers, failing to make refunds on merchandise guaranteed, failing to maintain an adequate supply of merchandise advertised, and failing to make deliveries of products within time specified by respondents.

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 Skylark Originals, Inc., a corporation, and Daniel L. Freedman and Beverly Freedman individually and as officers of said corporation, 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 thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Skylark Originals, Inc., is a corporation, organized, existing and doing business under, and by virtue of, the laws of the State of New York, with its principal office and place of business located at 806 Munroe Avenue, Asbury Park, New Jersey. Respondent Skylark Originals, Inc., also does business under the name Patti Fashions.

Respondents Daniel L. Freedman and Beverly Freedman are individuals and officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past, have been engaged in the advertising, offering for sale, sale and distribution of ladies' clothing, wigs and other products to the public.

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused,

* Petition for Review filed by respondent May 1, 1972 with U.S.C.A. 3rd Cir.