

It is ordered, That the Commission's order of April 20, 1964, be set aside and the Commission's order to cease and desist issued February 23, 1944, be, and it hereby is, reinstated as a consent order.

It is further ordered, That the Commission's Order Directing Compliance Hearings issued April 14, 1967, be vacated and the enforcement hearings instituted by said order are hereby terminated and dismissed.

Commissioner MacIntyre not participating.

IN THE MATTER OF

PEACH RUG COMPANY, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FLAMMABLE FABRICS ACTS

Docket C-2264. Complaint, Aug. 2, 1972—Decision, Aug. 2, 1972.

Consent order requiring, among other things, an Athens, Ga., manufacturer of carpets and rugs to cease manufacturing, importing or selling any product, fabric, or related material which fails to conform to an applicable standard of flammability or regulation issued or amended under the provisions of the Flammable Fabrics 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 Peach Rug Company, Inc., a corporation, trading as Associated Rug Mills of Georgia, and Armcor Carpet Mills, and Herman B. Upchurch, individually and as an officer of the said corporation, hereinafter referred to as respondents, have violated the provisions of the 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 Peach Rug Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia. Respondent Herman B. Upchurch, is an officer of the said corporate respondent. He formulates, directs, and controls the acts, practices, and policies of the said corporation.

Respondents are engaged in the manufacture and sale of carpets and rugs, with their principal place of business located at 8 Hull Road, Box 1112, Industrial Park, Athens, Georgia.

PAR. 2. Respondents are now and for some time last past have been engaged in the manufacture for sale, sale and offering 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, products, as the terms "commerce" and "product," are defined in the Flammable Fabrics Act, as amended, which products 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 products mentioned hereinabove were carpets and rugs Styles Derby and Hialeah subject to Department of Commerce Standard For The Surface Flammability of Carpets and Rugs (DOC FF 1-70).

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 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 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 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 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 Peach Rug Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia.

Respondent Herman B. Upchurch is an officer of the said corporation. He formulates, directs, and controls the acts, practices and policies of the said corporation.

Respondents are engaged in the manufacture and sale of carpets and rugs, with the office and principal place of business of respondents located at 8 Hull Road, Box 1112, Industrial Park, Athens, Georgia.

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 respondent Peach Rug Company, Inc., a corporation, trading as Associated Rug Mills of Georgia, and Armcor Carpet Mills, or under any other name or names, its successors and assigns, and its officers, and respondent Herman B. Upchurch, individually and as an officer of said corporation and respondents' agents, representatives and employees directly or through any corporation, subsidiary, division, 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 product, fabric, or related material; or manufacturing for sale, selling or offering for sale, any product made of fabric or related material which has been shipped or received in commerce, as "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 or regulation continued in effect, issued or amended 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 products

which give rise to this complaint, of the flammable nature of said products and effect the recall of said products from such customers.

It is further ordered, That the respondents 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 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 products which gave rise to the complaint, (2) the identity of the purchasers of said products, (3) the amount of said products on hand and in the channels of commerce, (4) 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, (5) any disposition of said products since March 6, 1972, and (6) 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 to destroy said products, and the results of such action. Respondents will submit with their report, a complete description of each style of carpet or rug currently in inventory or production. Upon request, respondents will forward to the Commission for testing a sample of any such carpet or rug.

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 individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business or employment in which he is engaged as well as a description of his duties and responsibilities.

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.

Complaint

IN THE MATTER OF

BORMAN FOOD STORES, INC., ET AL.

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SECTION 2(C) OF
THE CLAYTON ACT*Docket 8789. Complaint, July 10, 1969—Decision, Aug. 3, 1972.*

Order dismissing the complaint, as to two respondents, which charged two Salinas, Calif., purchasers and sellers of fresh fruits and vegetables as "ground" or "field" brokers, with violation of Sec. 2(c) of the Clayton Act, as amended, by receiving and accepting brokerage, commissions, or other compensation from sellers.

COMPLAINT

The Federal Trade Commission, having reason to believe that the parties respondent named in the caption hereof, and hereinafter more particularly described, have been and are violating the provisions of subsection (c) of Section 2 of the Clayton Act, as amended, (15 U.S.C. Section 13) hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Borman Food Stores, Inc., hereinafter referred to as "Borman," is a corporation organized, existing and doing business under and by virtue of the laws of the State of Michigan with its office and principal place of business located at 12300 Mark Twain, Detroit, Michigan.

PAR. 2. Respondent Borman has been and is now engaged primarily in the retailing of food products and other articles for personal and household use and operates a large number of retail stores, including supermarkets, drug stores and department stores. As of January 27, 1968, Borman operated approximately 89 supermarkets in the State of Michigan. Respondent Borman is also engaged in the manufacture and sale of dairy products. Borman's volume of business is substantial, totalling in excess of \$300 million annually, as of January 27, 1968.

PAR. 3. Respondent P & R Brokerage Co. hereinafter referred to as "P & R," is a partnership organized, existing and doing business under and by virtue of the laws of the State of California with its office and principal place of business located at 12 East Gabilan Street, Salinas, California.

Respondent Frank V. Condello, an individual, is a partner in respondent P & R Brokerage Co., and is located at the same address.

In his capacity as a partner, he is actively engaged in the purchase and sale of fresh fruits and vegetables. He formulates, directs and