

Complaint

81 F.T.C.

IN THE MATTER OF

OHRBACH'S, INC.

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

Docket C-2283. Complaint, Sept. 13, 1972—Decision, Sept. 13, 1972.

Consent order requiring a New York City retail department store, among other things to cease manufacturing for sale, selling, importing, or distributing any product, fabric, or related material which fails to conform to an applicable standard of flammability or regulation issued 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 Ohrbach's, Inc., 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 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 Ohrbach's, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware.

Respondent is engaged in business as a retail department store, with its office and principal place of business located at 5 West 34th Street, 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 were scarves.

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.

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 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 and the Flammable Fabrics Act, as amended; 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 Ohrbach's, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its office and principal place of business located at 5 West 34th Street, New York, New York.

Respondent is engaged in business as a retail department store.

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 Ohrbach's, Inc., a corporation, its successors and assigns and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division 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' scarves; or any article of wearing apparel, or fabric intended for use or which may be reasonably expected to be used in an article of wearing apparel, imported by or manufactured under the control or direction of Ohrbach's, Inc., as the terms "commerce" and "article of wearing apparel" are defined in the Flammable Fabrics Act, as amended; or any other article of wearing apparel, or fabric intended for use or which may be reasonably expected to be used in an article of wearing apparel, the manufacturer of which has not furnished a guaranty under Section 8(a) of the Flammable Fabrics Act, as amended; and which ladies' scarves, articles of wearing apparel or fabric 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 the 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 that 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 October 26, 1970, 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 article of wearing apparel, or fabric which is intended for use or which may reasonably be expected to be used in an article of wearing apparel, which article of wearing apparel or fabric comes within the provisions of the first paragraph of this order, having a plain surface and made of 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 article of wearing apparel, or fabric which is intended for use or which may reasonably be expected to be used in an article of wearing apparel, having a raised fiber surface. Upon request of the Commission the respondent shall submit samples of any such article of wearing apparel, or one square yard in size of any fabric which is intended for use or which may reasonably be expected to be used in an article of wearing apparel, as described above.

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 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 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

81 F.T.C.

IN THE MATTER OF

CUMBERLAND PACKING CORPORATION, ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-2284. Complaint, Sept. 13, 1972—Decision, Sept. 13, 1972*

Consent order requiring a Brooklyn, New York, manufacturer and seller of a sugar product and its New York City advertising agency, among other things to cease representing that their product is organically grown; representing that their product has not been processed; and misrepresenting the nutritional value of their product.

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 Cumberland Packing Corporation, a corporation, and Benjamin Eisenstadt, Marvin E. Eisenstadt, Betty Eisenstadt, and Ira Eisenstadt, individually and as officers of said corporation, and Stiefel/Raymond Advertising, Inc., a 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 Cumberland Packing Corporation 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 2 Cumberland Street, Brooklyn, New York. Respondents Benjamin Eisenstadt, Marvin E. Eisenstadt, Betty Eisenstadt and Ira Eisenstadt are individuals and are officers of Cumberland Packing Corporation. They formulate, direct and control the acts and practices of Cumberland Packing Corporation, including the acts and practices hereinafter set forth. Their address is the same as that of Cumberland Packing Corporation.

PAR. 2. Respondent Stiefel/Raymond Advertising, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 370 Lexington Avenue, New York, New York.

PAR. 3. Respondents Cumberland Packing Corporation, and Benjamin Eisenstadt, Marvin E. Eisenstadt, Betty Eisenstadt, and Ira Eisenstadt are now, and for some time last past have been, engaged in the manufacture, sale and distribution of a sugar product designated