

Docket C-2368. Complaint, Mar. 26, 1973—Decision, Mar. 26, 1973.

Consent order requiring a Salt Lake City, Utah, retailer of rugs, carpets, and floor coverings, among other things to cease misbranding and falsely advertising its textile fiber products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Textile Fiber Products Identification Act, and the rules and regulations promulgated thereunder, and by virtue of the authority vested in it by said Acts, the Federal Trade Com-

Complaint

82 F.T.C.

mission, having reason to believe that Carpetowne, Inc., a corporation, and Daniel A. Pentelute and Phillip A. Bullen, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and rules and regulations, 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 Carpetowne, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Utah, with its principal office and place of business located at 3270 Highland Drive, Salt Lake City, Utah.

Respondents Daniel A. Pentelute and Phillip A. Bullen are officers of the corporate respondent. They formulate, direct and control the policies, acts and practices of the said corporation, including the acts and practices hereinafter set forth. Their business 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 rugs, carpets and floor coverings to the public at retail.

PAR. 3. Respondents are now, and for some time last past have 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, of textile fiber products; and have 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; and have 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. 4. Certain of said textile fiber products were misbranded 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/or 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 floor coverings misbranded in the following respects:

1. The true generic name of the fibers present were not disclosed in violation of Rule 6 of said rules and regulations.

2. The percentages of such fibers, by weight, were not disclosed in violation of Rule 16 of said rules and regulations.

3. The required business name, or in the alternative, registered identification number, was not disclosed in violation of Rule 19 of said rules and regulations.

PAR. 5. Certain of said textile fiber products, namely floor coverings, sold from properly labeled samples, swatches, or specimens, were not properly labeled or accompanied by invoice or other paper showing the information otherwise required to appear on the label in violation of Rule 21(b) of said rules and regulations.

PAR. 6. Certain of said textile fiber products were falsely and deceptively advertised in that respondents in making disclosures or implications as to the fiber content of such textile fiber products in written advertisements used to aid, promote, and to assist, directly or indirectly, in the sale or offering for sale of said products, failed to set forth the required information as to fiber content as specified by Section 4(c) of the Textile Fiber Products Identification Act, and in the manner and form prescribed by the rules and regulations promulgated under said Act.

PAR. 7. Among such textile fiber products, but not limited thereto, was carpeting which was falsely and deceptively advertised in The Salt Lake Tribune, a newspaper published in the city of Salt Lake City, State of Utah, and having a wide circulation in Salt Lake City, State of Utah and various other States of the United States, in that said carpeting was described by such fiber connoting terms among which, but not limited thereto, was the term "Acrilan," and the true generic names of the fiber content in such carpeting was not set forth.

PAR. 8. By means of the aforesaid advertisements and others of similar import and meaning not specifically referred to herein, respondents have falsely and deceptively advertised textile fiber products in violation of the Textile Fiber Products Identification Act in that said textile fiber products were not advertised in ac-

cordance with the rules and regulations promulgated thereunder in the following respects:

1. In disclosing the fiber content information as to floor coverings containing exempted backings, fillings, or paddings, such disclosure was not made in such a manner as to indicate that such fiber content information related only to the face, pile or outer surface of the floor covering and not to the backing, filling or padding, in violation of Rule 11 of the aforesaid rules and regulations.

2. A fiber trademark was used in advertising textile fiber products, without a full disclosure of the fiber content information required by said Act, and the rules and regulations promulgated thereunder, in at least one instance in said advertisement, in violation of Rule 41(a) of the aforesaid rules and regulations.

3. A fiber trademark was used in advertising textile fiber products, containing only one fiber and such fiber trademark did not appear, at least once in said advertisement, in immediate proximity and conjunction with the generic name of the fiber, in plainly legible and conspicuous type, in violation of Rule 41(c) of the aforesaid rules and regulations.

PAR. 9. 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.

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 San Francisco Regional Office 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 rules and regulations promulgated thereunder; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an ad-

mission 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 Carpetowne, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Utah, with its principal office and place of business located at 3270 Highland Drive, Salt Lake City, Utah.

Respondents Daniel A. Pentelute and Phillip A. Bullen are officers of said corporation. They formulate, direct and control the policies, acts and practices of said corporation, and their principal office and place of business is located at the above stated address.

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 Carpetowne, Inc., a corporation, its successors and assigns, and its officers, and Daniel A. Pentelute and Phillip A. Bullen, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device (hereinafter, in this and other paragraphs of this order, referred to as "respondents"), in connection with the introduction, delivery for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce 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:

1. Misbranding 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; or as an alternative to the foregoing, where properly labeled samples, swatches, or specimens are used to effect the sale of articles of wearing apparel or other household textile articles which are manufactured specifically for a particular customer after the sale is consummated, and the articles of wearing apparel or other household textile articles are of the same fiber content as the samples, swatches, or specimens from which the sale was effected, failing to provide an invoice or other paper to accompany them showing the information otherwise required to appear on a label, as required by Rule 21(b) of the rules and regulations under the Textile Fiber Products Identification Act, effective March 3, 1960, as amended.

2. Falsely and deceptively advertising textile products by:
 - a. Making any representations by disclosure or by implication, as to fiber content of any textile fiber product in any written advertisement which is used to aid, promote or assist, directly or indirectly, in the sale, or offering for sale, of such textile fiber product unless the same information required to be shown on the stamp, tag, label or other means of identification under Sections 4(b)(1) and (2) of the Textile Fiber Products Identification Act is contained in the said advertisement, except that the percentages of the fibers present in the textile fiber product need not be stated.
 - b. Failing to set forth in advertising the fiber content

of floor covering containing exempted backings, fillings or paddings, that such disclosures relate only to the face, pile or outer surface of such textile fiber products and not to the exempted backings, fillings or paddings.

c. Using a fiber trademark in advertising textile fiber products without a full disclosure of the required fiber content information in at least one instance in said advertisement.

d. Using a fiber trademark in advertising textile fiber products containing only one fiber without such fiber trademark appearing at least once in the advertisement, in immediate proximity and conjunction with the generic name of the fiber, in plainly legible and conspicuous type.

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 shall forthwith distribute a copy of this order to all present and future personnel of respondents engaged in the offering for sale, or sale, of any carpeting or any other merchandise offered for sale by respondents or engaged in any aspect of the preparation, creation, or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That respondents notify the Commission at least thirty (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 respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business address and a statement as to the nature of the business or employment in which they are engaged as well as a description of their duties and responsibilities.

It is further ordered, That the respondents herein shall within

1090

FEDERAL TRADE COMMISSION DECISIONS

Complaint

82 F.T.C.

sixty (60) days after service upon them of this order file with