

Complaint

82 F.T.C.

their answering briefs, if any, on or before August 20, 1973, at which date oral argument shall be heard on the matter.

IN THE MATTER OF

ACS INDUSTRIES, INC., ET AL.

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

Docket C-2380. Complaint, April 13, 1973—Decision, April 13, 1973.

Consent order requiring a Woonsocket, R. I., manufacturer and seller of carpets and rugs, 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, as amended.

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 ACS Industries, Inc., a corporation, and George Botvin, 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 ACS Industries, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Oklahoma. Respondent George Botvin 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 22nd & D Streets, N.W., Miami, Oklahoma.

PAR. 2. Respondents are now and for some time last past have been engaged in the manufacturing 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 com-

merce, 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 in style "1200," 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 Bureau of Consumer Protection 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 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 ACS Industries, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Rhode Island. Respondent George Botvin is an officer of the corporation. He formulates, directs and controls the acts and practices and policies of the said corporation.

Respondent corporation is engaged in the manufacture and sale of carpets and rugs. Its office and principal place of business is located at 71 Villanova Street, Woonsocket, Rhode Island.

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 ACS Industries, Inc., a corporation, its successors and assigns, and its officers, and respondent George Botvin, 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 gave 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 the 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 the results thereof, (5) any disposition of said products since February 10, 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.

IN THE MATTER OF
AMERICAN CYANAMID COMPANY
CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED
VIOLATION OF SECTION 7 OF THE CLAYTON ACT, AS AMENDED

Docket C-2381. Complaint, April 16, 1973—Decision, April 16, 1973.

Consent order requiring the nation's 102nd largest industrial corporation located at Wayne, New Jersey, among other things to divest two toiletry product lines acquired from Shulton, Inc., and a plant located at Moosic, Pennsylvania; and imposing a ten year ban on the acquisition of firms which manufacture or distribute more than \$1 million worth of toilet preparations annually.

COMPLAINT

The Federal Trade Commission, having reason to believe that American Cyanamid Company, a corporation, has violated and is now violating the provisions of Section 7 of the Clayton Act, as amended, (U.S.C. Title 15, Section 18) through the acquisition of the stock and assets of Shulton, Inc., a corporation, hereby issues its complaint pursuant to the provisions of Section 11 of the aforesaid Clayton Act (U.S.C. Title 15, Section 21) stating its charges in this respect as follows:

I

DEFINITIONS

1. For the purposes of this complaint, the following definitions shall apply:

(a) "Men's fragrance products" means all after shave lotions, colognes, toilet waters and all purpose lotions regularly promoted for use by men which consist mostly of a solution of perfume, alcohol and water in varying amounts.

(b) "Direct sale market" means the domestic sale of men's fragrance products to the end user by use of door-to-door sellers.

(c) "Resale market" means the domestic sale of men's fragrance products to resellers such as, but not limited to, wholesale distributors, mass merchandisers, department stores, food stores, drug stores and specialty stores.

(d) "Total men's fragrance product market" means the domestic sale of men's fragrance products in the direct sale market and in the resale market combined.

II

RESPONDENT

2. Respondent, American Cyanamid Company, sometimes