

a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

IN THE MATTER OF
ECONOMY RUG COMPANY, INC., TRADING AS KIM RUG COMPANY, ET AL.
CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATIONS
OF THE TEXTILE FIBER PRODUCTS IDENTIFICATION AND FEDERAL
TRADE COMMISSION ACTS

Docket C-2476. Complaint, Nov. 19, 1973—Decision, Nov. 19, 1973

Consent order requiring a Dalton, Ga., purchaser and wholesaler of carpeting, among other things, to cease misbranding its textile fiber products, and failing to maintain records as required by the Textile Fiber Products Identification Act.

Appearances

For the Commission: *Joel Thwaites.*

For the respondents: *Pro se.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and the Textile Fiber Products Identification Act, Rule 39 of the regulation promulgated thereunder, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission having reason to believe that Economy Rug Company, Inc., a corporation, d/b/a Kim Rug Company and Scott Rug Company and William B. Chitwood, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the rules and regulations promulgated under 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 Economy Rug Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia. The respondent corporation maintains its office and principal place of business at 508 South Spencer Street, Dalton, Ga.

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

corporate respondent, including those hereinafter referred to. His address is the same as that of the corporate respondent.

Respondents are engaged in the business of purchasing carpet remnants, to include finished and unfinished carpet rolls, as well as rugs, from various sources and the wholesaling of such in the form of carpet rolls and rugs. Respondents are also engaged in the business of purchasing carpet yarns from various sources, tufting such into carpet rolls, or having such tufted into carpet rolls to their specifications, and the wholesaling of such carpet rolls, or area or throw rugs made from such carpet rolls.

PAR. 2. Respondents are now and for some time last past have been engaged in the introduction, delivery for introduction, manufacture 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 have sold, offered for sale, advertised, delivered, transported and caused to be transported, textile fiber products, either in their original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber products" are defined in the Textile Fiber Products Identification Act.

PAR. 3. Certain of said textile fiber products were misbranded by respondents 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 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 textile fiber products, namely area rugs and carpet rolls, which did not have labels affixed thereto disclosing:

1. The percentages of the fibers present by weight.
2. The generic names of the fibers present.
3. The name, or other identification issued and registered by the Commission, of the manufacturer of the product or one or more persons subject to Section 3 with respect to such product.

Also among such textile fiber products, but not limited thereto, were textile fiber products, namely area rugs, which had labels affixed thereto disclosing a registered identification number assigned to a firm which was neither the manufacturer of the product, nor a firm or person subject to Section 3 with respect to such product.

PAR. 4. Certain of said textile fiber products were misbranded in violation of the Textile Fiber Products Identification Act in that they were not labeled in accordance with the rules and regulations promulgated thereunder in that in disclosing the required fiber content information as to floor coverings containing exempted backings, fillings, or

padding, such disclosure was not made in such a manner as to indicate that such required 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.

PAR. 5. Respondents have failed to maintain proper records showing the fiber content of the textile fiber products fabricated from their yarns and manufactured to their specifications, in violation of Section 6(a) of the Textile Fiber Products Identification Act and Rule 39 of the regulations promulgated thereunder.

PAR. 6. Respondents, in violation of Section 5(a) of the Textile Fiber Products Identification Act have caused and participated in the removal of, prior to the time textile fiber products subject to the provisions of the Textile Fiber Products Identification Act were sold and delivered to the ultimate consumer, labels required by the Textile Fiber Products Identification Act to be affixed to such products, without substituting therefore labels conforming to Section 4 of said Act and in the manner prescribed by Section 5(b) of said Act.

PAR. 7. Respondents in substituting stamps, tags, labels, or other identification pursuant to Section 5(b) of the Textile Fiber Products Identification Act have not maintained such records as will show the information set forth on those stamps, tags, labels, or other identification removed, together with the name or names of the person or persons from whom such textile fiber products were received, in violation of Section 6(b) of the Textile Fiber Products Identification Act.

PAR. 8. 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 Atlanta 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 Rule 39 of the regulation promulgated thereunder.

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 the charges in that respect, and having thereupon accepted the executed agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedures 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 Economy Rug Company, Inc., is a corporation d/b/a Kim Rug Company and Scott Rug Company organized, existing and doing business under and by virtue of the laws of the State of Georgia. Its general offices and principal place of business are located at 508 South Spencer Street, Dalton, Ga.

Respondent William B. Chitwood is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of the corporate respondent, including those hereinafter referred to. The address of William B. Chitwood is the same as the corporate respondent.

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 Economy Rug Company, Inc., a corporation, its successors and assigns, also doing business as Kim Rug Company and Scott Rug Company, or any other name, and its officers, and William B. Chitwood, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division or other device, in connection with the introduction, delivery for introduction, manufacture for introduction, sale, advertising or offering for sale, 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, or 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:

A. Misbranding such 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.

B. Failing to disclose on labels the required fiber content information as to floor coverings, containing exempted backings, fillings, or paddings, in such manner as to indicate that it relates only to the face, pile or outer surface of the floor covering and not to the exempted backing, filling or padding.

C. Failing to maintain and preserve, as required by Section 6(b) of the Textile Fiber Products Identification Act, such records of the fiber content of textile fiber products as will show the information set forth on the stamps, tags, labels, or other identification removed by respondents, together with the name or names of the person or persons from whom such textile fiber products were received, when substituting stamps, tags, labels or other identification pursuant to Section 5(b) of the Textile Fiber Products Identification Act.

D. Failing to maintain and preserve proper records showing the fiber content of the textile fiber products manufactured by said respondents, as required by Section 6 of the Textile Fiber Products Identification Act and Rule 39 of the regulations promulgated thereunder.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, Economy Rug Company, Inc., 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 address and a statement as to the nature of the 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 respondents deliver a copy of this order to

TEXAS INDUSTRIES, INC.

Order

cease and desist to all present and future personnel of proposed respondents engaged in the offering for sale, or sale of any product, and that proposed respondents secure a signed statement acknowledging receipt of said order from each such person.

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 TEXAS INDUSTRIES, INC.

Docket 8656. Complaint, Jan. 22, 1965—Modifying Order, Nov. 20, 1973

Order reopening proceedings and modifying the last paragraph of Part I of a consent order to cease and desist, 68 F.T.C. 992, 30 F.R. 1004, by increasing from 35% to 50% the limitation on the amount of all portland cement supplied each year by respondent for consumption by the divested ready-mix facility (as long as it retains a security interest in any of the divested assets).

Appearances

For the Commission: James T. Halverson.

For the respondent: Locke, Purnell, Boren, Laney & Neely, Dallas, Tex. and Covington & Burling, Washington, D. C.

ORDER REOPENING PROCEEDING AND MODIFYING CONSENT ORDER

The respondent in this matter, Texas Industries, Inc., moves for a reopening of this proceeding and a modification of the consent order entered herein on Dec. 3, 1965.

The December 3, 1965 order required the respondent to divest certain ready-mix concrete facilities located in Shelby County, Tenn., to a purchaser or purchasers approved by the Commission within two years from the effective date of the order. The divestiture was accomplished.

The order also prohibits Texas Industries, so long as it retains a security interest with respect to any of the assets divested, from supplying in any calendar year more than 35 percent of the cement purchased by Fischer Concrete Company, Inc., the acquirer of the divested ready-mix facilities, for consumption in the divested plants. The order further provides that Texas Industries' sales of cement for consumption in the divested ready-mix concrete facilities as the result of the specification by a customer in an oral or written agreement with the operator of the facilities are not to be taken into consideration in computing the amount of cement supplied or consumed.

Order

A controversy has developed over whether the order allows respondent to exceed the 35 percent cement supply limitation as a result of specifications for Texas Industries' cement that were directly solicited by it. The modification sought would amend the pertinent paragraph and place a 50 percent limit on the amount of all portland cement supplied each year by respondent for consumption by the divested ready-mix facility (as long as it retains a security interest in any of the divested assets). Calculation of the 50 percent limitation would include cement supplied or consumed as a result of specification by a customer for respondent's cement.

The Bureau of Competition in their answer to the petition agrees that the order should be so modified, stating that change represents a workable accommodation to the views of both parties.

The Commission has reviewed the grounds requested for the change and finds that it would be in the public interest to grant the petition. Accordingly,

It is ordered, That the paragraph in Part I of the order, beginning on page 3 thereof (68 F.T.C. at 998), be, and it hereby is, amended to read as follows:

Nothing in this paragraph shall be deemed to prohibit Texas Industries from retaining, accepting and enforcing bona fide liens, mortgages, deeds of trust or other forms of security on all or parts of the assets required to be divested hereunder for the purpose of securing to Texas Industries full payment of the price at which said assets are disposed of or sold, or to prohibit Texas Industries from accomplishing the required divestiture in whole or in part by means of a lease-purchase agreement or agreements, or a conditional sale or sales, pursuant to which Texas Industries retains title to the assets until the purchase price is fully paid; *Provided, however*, That if, after bona fide disposal pursuant to the divestiture order, Texas Industries, by enforcing a bona fide lien, mortgage, deed of trust or other form of security, or by reason of the purchaser's failure to comply with the terms of a lease-purchase agreement or conditional sale agreement when and as required, regains control of any of said assets Texas Industries shall divest itself of said assets within twelve months from the time of said reacquisition to a purchaser or purchasers approved by the Federal Trade Commission, and *Provided further*, That so long as Texas Industries retains a security interest with respect to any of the assets divested hereunder, or with respect to assets as to which divestiture is made by lease-purchase or conditional sale agreement any part of the sale price remains unpaid and owing, Texas Industries shall not in any calendar year commencing in the year 1973 supply more than fifty

percent of the portland cement purchased by the purchaser of said assets for consumption in ready-mix concrete producing facilities divested hereunder.

IN THE MATTER OF
GENERAL ELECTRIC COMPANY
CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATIONS
OF THE FEDERAL TRADE COMMISSION ACT AND SECTION 8 OF THE
CLAYTON ACT

Docket C-2477. Complaint, Nov. 26, 1973—Decision, Nov. 26, 1973

Consent order requiring a New York City manufacturer and seller of residential and commercial air conditioners, among other things to cease interlocking from directors with Chrysler Corporation so long as they compete in the manufacture and sale of any product.

Appearances

For the Commission: *Jonathan Gaines* and *Allee A. Ramadhan*.
For the respondent: *Weil, Gotshal & Manges*, New York City.

COMPLAINT

The Federal Trade Commission, having reason to believe that the above named respondent has violated the provisions of Section 8 of the Clayton Act, as amended, and Section 5 of the Federal Trade Commission Act, and that a proceeding in respect thereof would be in the interest of the public, issues this complaint, stating its charges as follows:

PARAGRAPH 1. Respondent General Electric Company (General Electric) is a corporation organized and existing under and by virtue of the laws of the State of New York, maintaining its principal place of business at 570 Lexington Avenue, New York, N. Y. At all times relevant to this complaint, General Electric had capital, surplus, and undivided profits aggregating in excess of 2 billion dollars. In 1971 General Electric had revenues of approximately 9.4 billion dollars.

PAR. 2. Chrysler Corporation (Chrysler) is a corporation organized and existing under and by virtue of the laws of the State of Delaware, maintaining its principal place of business at Detroit, Mich. At all times relevant to this complaint, Chrysler had capital, surplus, and undivided profits aggregating in excess of 1 billion dollars. In 1971 it had revenues of approximately 8 billion dollars.

PAR. 3. Mr. Edmund W. Littlefield is a resident of the State of California. In 1964 he was elected to the board of directors of General Electric and has served in that capacity from the time of his election to