
IN THE MATTER OF

MR. MARTINEZ OF MIAMI, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION AND TEXTILE FIBER
PRODUCTS IDENTIFICATION ACTS

Docket C-2766. Complaint, Dec. 8, 1975—Decision, Dec. 8, 1975

Consent order requiring a Miami, Fla., manufacturer of women's wearing apparel, among other things to cease furnishing customers with false guaranties that certain textile fiber products were not misbranded, mislabeling products as to their constituent fibers, failing to maintain and preserve proper records, and failing to disclose on labels all information required by the Textile Fiber Products Identification Act.

Complaint

86 F.T.C.

*Appearances*For the Commission: *Charles Peterson.*For the respondents: *Pro se.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Textile Fiber Products Identification Act and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Mr. Martinez of Miami, Inc., a corporation, and Leonel Martinez, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of the said Acts and 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 Mr. Martinez of Miami, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at 525 N.W. 29th St., Miami, Fla.

Respondent Leonel Martinez is an individual and an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His business address is the same as that of the corporate respondent.

Respondents are manufacturers of textile fiber products, including, but not limited to, wearing apparel in the form of women's suits, dresses, blouses and slacks.

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 and 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 term "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 within the intent and meaning of Section 4(a) of the

Textile Fiber Products Identification Act and the rules and regulations promulgated thereunder, in that they were falsely and deceptively stamped, tagged, labeled, invoiced or otherwise identified as to the name or amount of the constituent fibers contained therein.

Among such misbranded textile fiber products, but not limited thereto, were textile fiber products, namely women's suits, dresses, blouses and slacks, which contained substantially different amounts and types of fibers than as represented.

PAR. 4. 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 prescribed by the rules and regulations promulgated under said Act.

Among such misbranded textile fiber products, but not limited thereto, were textile fiber products with labels which failed:

- a. To disclose the true generic names of the fibers present in the order of predominance by weight; and
- b. To disclose the percentages of such fibers by weight.

PAR. 5. 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 the following respects:

- a. Fiber trademarks were placed on labels without the generic names of the fibers appearing on such labels in immediate conjunction therewith as required by Rule 17(a) of the aforesaid rules and regulations; and
- b. Required information as to fiber content was not set forth in a manner that would separately show the fiber content of the separate units of textile fiber products containing two or more units, each of which was of different fiber composition as required by Rule 29 of the aforesaid rules and regulations.

PAR. 6. Respondents have failed to maintain proper records showing the fiber content of the textile fiber products manufactured by them in violation of Section 6(a) of the Textile Fiber Products Identification Act and Rule 39 of the rules and regulations promulgated thereunder.

PAR. 7. Respondents have furnished their customers with false guaranties that certain of the textile fiber products were not misbranded or falsely invoiced by falsely representing in writing on invoices that respondents have filed a continuing guaranty under the Textile Fiber Products Identification Act with the Federal Trade Commission in violation of Rule 38(d) of the rules and regulations under said Act and Section 10(b) of such 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, as amended, and the Textile Fiber Products Identification Act; 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 sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34 of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Mr. Martinez of Miami, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at 525 N.W. 29th St., Miami, Fla.

Respondent Leonel Martinez is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation, and his 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 Mr. Martinez of Miami, Inc., a corporation, its successors and assigns, and its officers and Leonel Martinez, 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, 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 products" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by:

1. Falsely or deceptively stamping, tagging, labeling, invoicing, advertising or otherwise identifying such products as to the name or amount of the constituent fibers contained therein.

2. Failing to affix a stamp, tag, label or other means of identification to each such 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.

3. Failing to separately set forth the required information as to fiber content in such a manner as to show the fiber content of the separate units of textile fiber products containing two or more units which are of different fiber composition where such form of marking is necessary to avoid deception as required by Rule 29 of the rules and regulations promulgated under authority of the Textile Fiber Products Identification Act.

B. Failing to maintain and preserve proper records of fiber content of textile fiber products manufactured by respondents as required by Section 6(a) of the Textile Fiber Products Identification Act and Rule 39 of the rules and regulations promulgated thereunder.

It is further ordered, That respondents Mr. Martinez of Miami, Inc., a corporation, and its officers, and Leonel Martinez, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from furnishing a false guaranty that any

textile fiber product is not misbranded or falsely invoiced under the provisions of the Textile Fiber Products Identification Act.

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 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 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.
