

IN THE MATTER OF
SUNSHINE ORIGINALS 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-2832. Complaint, Aug. 11, 1976 — Decision, Aug. 11, 1976

Consent order requiring a Hialeah, Fla., garment manufacturer among other things to cease misbranding and falsely guaranteeing textile fiber products; failing to disclose legally required information concerning such products; and misrepresenting domestic and foreign branch offices.

Appearances

For the Commission: *Truett M. Honeycutt.*

For the respondents: *Pro se.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended, 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 Sunshine Originals of Miami, Inc., a corporation, also doing business as Don Manuel of Miami, and Manuel Ramos and Manuel A. Ramos, Jr., individually and as officers of Sunshine Originals of Miami, Inc., 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 now appearing to the Commission that a proceeding by it in respect thereto would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Sunshine Originals of Miami, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida. The respondent corporation maintains its office and principal place of business at 600 W. 18th St., Hialeah, Florida.

Respondents Manuel Ramos and Manuel A. Ramos, Jr., are officers of said corporation. They formulate, direct and control the practices of the corporate respondent. Their address is the same as that of the corporate respondent.

Respondents are engaged in the business of manufacturing garments including particularly men's sport shirts and women's blouses, substantial quantities of which are known in the trade as "irregulars," or "seconds."

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COUNT I

Alleging violation of the Textile Fiber Products Identification Act and the implementing rules and regulations promulgated thereunder, and of the Federal Trade Commission Act, as amended, the allegations of Paragraph One hereof are incorporated by reference in Count I as if fully set forth verbatim.

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 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 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 men's sport shirts offered by Sunshine Originals of Miami, Inc., which did not have labels affixed thereto disclosing:

- (1) The generic names of the fibers present in the order of predominance by weight;
- (2) The percentage of the fibers present by weight; and
- (3) The name or other identification, issued and registered by the Commission, of the manufacturer of the products or one or more persons subject to Section 3 with respect to such products.

PAR. 4. Respondents have furnished their customers false guaranties that textile fiber products were not misbranded or falsely invoiced by falsely representing in writing on invoices that they 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. 5. 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, as amended.

COUNT II

Alleging violations of Section 5 of the Federal Trade Commission Act, as amended, the allegations of Paragraph One, hereof, are incorporated by reference in Count II as if fully set forth verbatim.

PAR. 6. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said products to be shipped from their place of business in the State of Florida to purchasers thereof located in various States of the United States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended.

PAR. 7. In the conduct of their business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of products of the same general kind as that sold by respondents.

PAR. 8. Respondents falsely and deceptively represented, directly or by implication, on textile fiber product labels that they maintain branch offices or other facilities in Rome, Italy; Madrid, Spain; and New York, New York; whereas, in truth and in fact, respondents do not maintain such facilities.

PAR. 9. Respondents falsely and deceptively represented on invoices that they had on file with the Federal Trade Commission a continuing guaranty under the Wool Products Labeling Act of 1939, when, in truth and in fact, respondents did not have such a continuing guaranty on file at the time of the representation.

PAR. 10. Respondents falsely and deceptively represented on invoices that they had on file with the Federal Trade Commission a continuing guaranty under the Flammable Fabrics Act, as amended, when, in truth and in fact, respondents did not have such a continuing guaranty.

PAR. 11. Respondents did not, in each applicable instance, mark their said men's sport shirts and women's blouses in a clear, conspicuous manner to disclose that they were "irregulars" or "seconds," so as to inform purchasers thereof of their imperfect quality. The purchasing public, in the absence of markings showing that men's sport shirts and women's blouses are "irregulars" or "seconds," understands and believes that they are of perfect quality. Respondents' failure to mark or label their products in such a manner as will disclose that said

products are imperfect, has had, and now has, the capacity and tendency to mislead dealers and members of the purchasing public into the erroneous and mistaken belief that said products are perfect quality products and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 12. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead dealers and other purchasers into the erroneous and mistaken belief that such statements and representations were, and are, true, and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 13. The aforesaid acts and practices of respondents, as herein alleged in Paragraphs Six through Twelve, were, and are, all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair and deceptive acts and practices and unfair methods of competition, in or affecting commerce, within the intent and meaning of Section 5 of the Federal Trade Commission Act, as amended.

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 submit 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 respondents and counsel for the Commission having thereafter executed an agreement containing the consent order, with 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 Act, as amended, 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 making the following jurisdictional findings, and enters the following order:

1. Respondent Sunshine Originals 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 600 W. 18th St., Hialeah, Florida. Sunshine Originals of Miami, Inc. does business under its own name and as Don Manuel of Miami.

Respondents Manuel Ramos and Manuel A. Ramos, Jr. are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent. Their address is the same as that of the corporate respondent.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of respondents, and the proceeding is in the public interest.

ORDER

COUNT I

It is ordered that respondents Sunshine Originals of Miami, Inc., a corporation, doing business under its own name and as Don Manuel of Miami, its successors and assigns, and Manuel Ramos and Manuel A. Ramos, Jr., individually and as officers 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 or affecting commerce, or in 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 any other textile fiber product, 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:

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

b. 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;

2. Furnishing a false guarantee that any textile fiber product is not misbranded or falsely or deceptively invoiced or advertised under the provisions of the Textile Fiber Products Identification Act.

COUNT II

It is further ordered, That respondents Sunshine Originals of Miami, Inc., a corporation, doing business under its own name and as Don Manuel of Miami, its successors and assigns, and Manuel Ramos and Manuel A. Ramos, Jr., individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division or other device, in connection with the offering for sale, sale or distribution of shirts, blouses or any other articles of merchandise, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

1. Falsely and deceptively representing, directly or by implication on textile fiber product labels or other instrumentalities, that respondents maintain branch offices or other facilities in Rome, Madrid, New York, or any other city or geographic area;

2. Falsely representing in writing that respondents have a continuing guaranty on file with the Federal Trade Commission under the provisions of the Wool Products Labeling Act of 1939;

3. Falsely representing in writing that respondents have a continuing guaranty on file with the Federal Trade Commission under the provisions of the Flammable Fabrics Act, as amended.

It is further ordered, That respondents Sunshine Originals of Miami, Inc., a corporation, doing business under its own name and as Don Manuel of Miami, its successors and assigns, and Manuel Ramos and Manuel A. Ramos, Jr., individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division or other device, in connection with the offering for sale, sale or distribution of shirts, blouses or other related textile or wool products which are "irregulars," "seconds," or otherwise imperfect, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

1. Selling or distributing any such product without clearly and conspicuously marking thereon the word "irregular" or "second," as the case may be, in such degree of permanency as to remain on the product until the consummation of the consumer sale and of such conspicuousness as to be easily observed and read by the purchasing public;

2. Using any advertisement or promotional material in connection with the offering for sale of any such product unless it is disclosed therein that such article is an "irregular" or "second," as the case may be;

3. Representing in any other manner, directly or by implication, that such products are first-quality or perfect quality.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, Sunshine Originals of Miami, 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 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 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 cease and desist to all present and future personnel of respondents engaged in the offering for sale or sale of any product or in any aspect of 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 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.

Complaint

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IN THE MATTER OF
THE HERTZ CORPORATION

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT

Docket C-2833. Complaint, Aug. 11, 1976 — Decision, Aug. 11, 1976

Consent order requiring a New York City dealer in used motor vehicles, among other things to cease misrepresenting and/or failing to disclose material facts relating to the history of used motor vehicles offered for sale by respondent. Further, respondent is required to keep accurate repair records, and to advise prospective customers of their right to inspect these records; and, additionally, a statement as to the availability of repair records for inspection must be conspicuously disclosed on sales contracts and receipts.

Appearances

For the Commission: *Michael Dershowitz and Frank H. Addonizio.*
For the respondent: *Jerrold G. Van Cise, Cahill, Gordon & Reindel,*
New York City.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that The Hertz Corporation, a corporation, hereinafter sometimes referred to as respondent, has 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 The Hertz Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its principal office and place of business located at 660 Madison Ave., New York, New York.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the advertising, offering for sale, and sale to the public of used motor vehicles and in the servicing and repair thereof.

PAR. 3. In the course and conduct of its aforesaid business, respondent causes, and for some time last past has caused, its used motor vehicles to be shipped from respondent's various rental fleet locations to its retail outlet locations in various States of the United States and the District of Columbia.

Accordingly, the respondent maintains and has maintained a substantial course and conduct of business in or affecting commerce as