

IN THE MATTER OF

O'NEILL, INCORPORATED

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE
TEXTILE FIBER PRODUCTS IDENTIFICATION ACT AND
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

Docket C-3352. Complaint, Dec. 9, 1991—Decision, Dec. 9, 1991

This consent order requires, among other things, the California-based company, d/b/a Onax, Inc., to label or otherwise identify the constituent fiber content, percentages of fiber content, manufacturer's name, and country of origin for their textile fiber products, as required by the Textile Fiber Products Identification Act. In addition, the order requires the respondent to distribute a copy of the order to each of its operating divisions.

Appearances

For the Commission: *Sylvia J. Kundig* and *Jeffrey A. Klurfeld*.

For the respondent: *Paul B. Meltzer*, *O'Neill, Incorporated*, Santa Cruz, CA.

COMPLAINT

The Federal Trade Commission, having reason to believe that O'Neill, Incorporated, a corporation, also trading and doing business as Onax, Inc. ("respondent"), has violated the provisions of the Federal Trade Commission Act and 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, alleges:

PARAGRAPH 1. O'Neill, Incorporated is a corporation organized, existing and doing business under the laws of the State of California. Its office and principal place of business is 1071 41st Avenue, Santa Cruz, California.

PAR. 2. Respondent is an importer, manufacturer, and wholesaler of textile fiber products, including, but not limited to, wearing apparel constructed of neoprene ("neoprene-type garments"), such as wet-suits, that consist of a rubber substance enclosed between two layers of a knit fabric.

PAR. 3. The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. The neoprene-type garments constitute Textile Fiber Products, as that term is defined by the Textile Fiber Products Identification Act, 15 U.S.C. 70 *et seq.*, and the Rules and Regulations promulgated thereunder, 16 CFR 303.

PAR. 5. The neoprene-type garments were misbranded by respondent in that they were not stamped, tagged, labeled, or otherwise identified as required by Section 4(b) of the Textile Fiber Products Identification Act, 15 U.S.C. 70b, and in the manner and form prescribed by the Rules and Regulations promulgated under that Act, 16 CFR 303.

PAR. 6. Under Section 3(f) of the Textile Fiber Products Identification Act, 15 U.S.C. 70(a), a violation of that Act and the Rules and Regulations promulgated thereunder, is an unfair method of competition and an unfair and deceptive act or practice under the Federal Trade Commission Act, 15 U.S.C. 45.

PAR. 7. The acts or practices of respondent, as alleged in this complaint, were and are in violation of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder. These acts and practices constituted, and now constitute, unfair and deceptive acts and practices and unfair methods of competition in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. 45.

Commissioner Yao not participating.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent 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 respondent with violation of the Federal Trade Commission Act; and

The respondent, their attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent 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 respondent 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 respondent has violated the said Act, 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, and no comments having been filed thereafter by interested parties pursuant to Section 2.34 of its Rules, now in further conformity with the procedure prescribed in Section 2.34 of its Rules; the Commission hereby makes the following jurisdictional findings and enters the following order:

1. O'Neill, Incorporated is a corporation organized, existing and doing business under the laws of the State of California. Its office and principal place of business is 1071 41st Avenue, Santa Cruz, California.

2. The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

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

ORDER

I.

It is ordered, That respondent O'Neill, Incorporated, a corporation, trading and doing business under that name or as Onax, Inc. or by any other name, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale or sale of any textile fiber product, as that term is defined by the Textile Fiber Products Identification Act, 15 U.S.C. 70 *et seq.*, do forthwith cease and desist from:

Offering for sale or selling any such textile fiber product without the product being stamped, tagged, labeled, or otherwise identified as

required by Section 4(b) of the Textile Fiber Products Identification Act and in the manner and form prescribed by the Rules and Regulations promulgated under that Act.

It is further ordered, That respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the 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 the compliance obligations that arise out of this order.

It is further ordered, That respondent shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That respondent shall, within sixty (60) days after service on it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

Commissioner Yao not participating.

IN THE MATTER OF

SPANISH TELEMARKETING INDUSTRIES, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3353. Complaint, Dec. 20, 1991—Decision, Dec. 20, 1991*

This consent order prohibits, among other things, three California telemarketing companies and an individual, that produce Spanish-language television advertisements for a weight loss product, from representing that any weight control food, drug, product, device, or service causes weight loss without increased physical activity and/or decreased caloric intake.

Appearances

For the Commission: *Sylvia J. Kundig.*

For the respondents: *Alan Weil, Armato, Gaims, Weil, West & Epstein, Los Angeles, CA.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Spanish Telemarketing Industries, Inc., a corporation, Nickolas Telemarketing Industries, Inc., a corporation, and Sylvia George, Inc., a corporation, and Stewart Brown, individually and as an officer and director of Spanish Telemarketing Industries, Inc., Nickolas Telemarketing Industries, Inc., and Sylvia George, Inc., ("respondents"), have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. (a) Respondent Spanish Telemarketing Industries, Inc., is a corporation organized, existing and doing business under the laws of the State of California. Its offices and principal place of business is 3219 San Fernando Road, Los Angeles, California.

(b) Respondent Nickolas Telemarketing Industries, Inc., is a corporation organized, existing and doing business under the laws of the State of California. Its offices and principal place of business is 3219 San Fernando Road, Los Angeles, California.

(c) Respondent Sylvia George, Inc., is a corporation organized,