

a report in writing setting forth its efforts and progress in carrying out the divestiture requirements of this order until all such assets have been divested with the approval of the Commission; and respondent shall submit to the Commission on the first day of each calendar year a report in writing setting forth its compliance with the cease and desist provisions of this order.

F

It is further ordered, That respondent notify the Commission of the names and addresses of all persons, firms or corporations who shall express to respondent any interest in purchasing the assets to be divested under the terms of this order, within thirty (30) days after having been informed of such interest.

G

It is further ordered, That respondent's motion to withdraw this matter from adjudication be, and it hereby is, denied.

Commissioners Dixon and Elman believe that, in view of the changed conditions now existing in the vending machine industry, the public interest would be served by disposing of the case on the basis of the consent order settlement submitted by respondent.

IN THE MATTER OF

MICHAEL M. TURIN*

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

Docket 8757. Complaint, Feb. 28, 1968—Decision Apr. 11, 1969

Consent order requiring a Costa Mesa, Calif., retailer of fabrics to cease misbranding its textile fiber products by failing to disclose on labels when the fabrics are "remnants of undetermined fiber content."

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

*Formerly trading as International Yardage Fair.

Trade Commission, having reason to believe that Michael M. Turin, an individual formerly trading as International Yardage Fair, hereinafter referred to as the respondent, has 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 Michael M. Turin is an individual who formerly traded under the name of International Yardage Fair until October 1966.

Respondent Michael M. Turin established and formulated the policies of International Yardage Fair, and directed its operation, until October 1966, at which time he discontinued trading under the name of International Yardage Fair.

Respondent Michael M. Turin, while trading under the name of International Yardage Fair, engaged in the business of retailing fabrics, specializing in the sale of 3 to 10 yard pre-cut lengths and remnants. Respondent Michael M. Turin, up until October 1966, had his office and principal place of business at 3006 Country Club Drive, Costa Mesa, California.

Respondent Michael M. Turin ceased trading as International Yardage Fair in October 1966, and became associated with Round the World Commodities, a proprietorship formed and owned by Clint Pigman. Round the World Commodities was organized in October 1966 and is engaged in the same business as International Yardage Fair formerly was. Respondent Michael M. Turin, as an associate of, and consultant to, Clint Pigman, performs the same functions as those performed by him while operating International Yardage Fair. These include the promoting of fabric shows, arranging publicity in advertising, setting up itineraries, and assisting in the buying of fabrics.

The address of the office and principal place of business of Round the World Commodities is Post Office Box 1252, Costa Mesa, California. Its warehouse is located at 1245 Logan Street, Costa Mesa, California.

PAR. 2. Respondent, is now and for some time last past has been engaged in the introduction, delivery for sale, 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 has 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 has 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 product" are defined in the Textile Fiber Products Identification Act.

PAR. 3. Certain of said textile fiber products were misbranded by respondent within the intent and meaning of Section 4(a) of the Textile Fiber Products Identification Act and Rules and Regulations promulgated thereunder in that they were falsely and deceptively stamped, tagged, labeled, advertised, or otherwise identified as to the name or amount of constituent fibers contained therein.

Among such misbranded textile fiber products, but not limited thereto, were textile fiber products which were advertised in the Daily Pilot/News-Press, a newspaper published in Newport Beach, California, and distributed in interstate commerce. The said advertisement contains terms which represented, either directly or by implication, that certain fibers were present in the said product, when such was not the case.

Among such terms, but not limited thereto, was the term "LINENS," which was used to describe a textile fiber product which in truth and in fact was made of rayon and was not composed of linen nor did it contain any linen fibers.

PAR. 4. Certain of said textile fiber products were misbranded by respondent 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 which were not labeled to show in words and figures plainly legible: (1) the true generic names of the constituent fibers present in the textile fiber products; (2) the percentage of each such fiber; and (3) any fiber or group of fibers present in the amount of 5 per centum or less as "other fiber" or "other fibers."

PAR. 5. Certain of said textile fiber products were falsely and deceptively advertised, in that the respondent, in making disclosure or implications as to the fiber content of such textile fiber products in written advertisements used to aid, promote

and assist, directly or indirectly, in the sale or offering for sale of said products, failed to set forth the required information as to fiber content, as specified by Section 4(c) 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 textile fiber products, but not limited thereto, were fabrics which were falsely and deceptively advertised in the Los Angeles Times, a newspaper published in Los Angeles, California, and distributed in interstate commerce, in that the trade name of the fiber was used in lieu of the true generic name of the fibers in such articles.

PAR. 6. Respondent, in violation of Section 5(a) of the Textile Fiber Products Identification Act, has 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 therefor labels conforming to Section 4 of said Act and in the manner prescribed by Section 5(b) of said Act.

PAR. 7. Respondent, in substituting a stamp, tag, label or other identification pursuant to Section 5(b) has not kept such records as would show the information set forth on the stamp, tag, label or other identification that was removed, and the name or names of the person or persons from whom such textile fiber product was received, in violation of Section 6(b) of the Textile Fiber Products Identification Act.

PAR. 8. The acts and practices of the respondent 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 or practices, in commerce, under the Federal Trade Commission Act.

PAR. 9. Respondent is now, and for some time last past has been, engaged in the offering for sale, sale and distribution of textile fabrics to the public.

PAR. 10. In the course and conduct of his aforesaid business, respondent has caused advertisements, intended to induce the sale of his aforesaid textile fabrics, to be placed in newspapers which were and are disseminated in interstate circulation. Among and typical, but not all inclusive of such statements, are the following:

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Complaint

THE WORLD'S LARGEST DISPLAY OF MATERIALS.

Over 4,000 sq. ft. Jam-packed with material from "Around the world"

* * * * *

World's Largest display and sale

Over 32,000 sq. ft. of display space never before have so many fabrics been displayed and sold under one roof.

Materials from "Around the World"

Japan France England India
Switzerland Hong Kong Germany
and many many others

* * * * *

Largest
Display of
Materials
in the World!!!

1/2 million yards of sample cuts and bolts made for manufacturers of clothing!!!

Yard goods—drapery fabrics
upholstery materials
Plastics Boltflex
Naugahyde
and others.

* * * * *

ALL FIRST
QUALITY
and
GUARANTEED!
No Limit—No Reserve

PAR. 11. By and through the use of said statements, and others of similar import not specifically set out herein, respondent represented, directly or by implication:

1. That the respondent operated the largest display room and had for sale the largest display of textile fabrics in the world.
2. That all of the textile fabrics displayed and sold by him were of first quality.
3. That the respondent's textile fabrics were unconditionally guaranteed.

PAR. 12. In truth and in fact:

1. Respondent did not operate the largest display room in the world.
2. Respondent has not had, and does not have, the largest display of fabric in the world.

3. Many of the textile fabrics displayed and sold by him were seconds and were not of first quality.

4. Respondent's guarantee was not unconditional and the guarantor failed to set forth the nature and extent of the guarantee, and the manner in which the guarantor would perform. Therefore, the statements and representations set forth in Paragraph Ten were and are false, misleading, and deceptive.

PAR. 13. In the conduct of his business at all times mentioned herein, respondent has been in substantial competition, in commerce, with corporations, firms and individuals in the sale of textile fabrics of the same general kind and nature as those sold by respondent.

PAR. 14. The use by respondent of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondent's products by reason of said erroneous and mistaken belief.

PAR. 15. The aforesaid acts and practices of respondent, as herein alleged, were and are all to the prejudice and injury of the public and of respondent's competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

Mr. Edward B. Finch and *Mr. Richard H. Gins* for the Commission.

Mr. Donald W. Killian, Jr., and *Mr. Blair T. Barnett*, Newport Beach, Calif., for respondent.

INITIAL DECISION BY WALTER R. JOHNSON, HEARING EXAMINER
JANUARY 9, 1969

In the complaint, which was issued on February 28, 1968, the respondent is charged with violating provisions of the Federal Trade Commission Act, the Textile Fiber Products Identification Act, and the Rules and Regulations promulgated under the latter Act. On April 1, 1968, complaint counsel and counsel for respondent participated with the hearing examiner in a telephonic conference, and an order was issued reciting the results thereof. The order contained a directive to each party to prepare a trial

brief setting forth a statement of anticipated issues and disclosing, among other things, the names of the witnesses and the documentary exhibits which the party plans to introduce. Complaint counsel's brief was submitted on May 6, 1968, and the respondent's brief on May 21, 1968.

A hearing, convened on June 10, 1968, was adjourned, to be reset on ten days' notice, on motion of respondent's counsel and a showing that the respondent had undergone surgery four days prior thereto and would be hospitalized for a period of time. Hearings were held and completed at Los Angeles, California, on September 24 and 25, 1968, and the record was closed for the receipt of evidence. Proposed findings were to be filed on or before November 8, and replies thereto on November 22, 1968.

Complaint counsel, on November 8, 1968, filed with the Secretary of the Commission proposed findings. The respondent, who is located at Costa Mesa, California, by a letter dated November 8, 1968, addressed to the hearing examiner, stated in part:

When I found out what the approximate cost of obtaining a transcript of the proceedings would be, not to mention additional attorney's fees, I discovered that I could not financially afford to carry the fight any longer and I told my attorney not to do any more work on the case.

The main reason I am writing this letter is to let you know that the fact that I am not filing Findings is not due to the fact that I have no interest in the matter, but simply due to the fact that I couldn't afford to.

However, on November 25, 1968, the hearing examiner received from the respondent a document, which was mailed on November 21, 1968, entitled "Proposed Finding of Fact, Conclusions of Law and Order," described by him as "a layman's attempt to submit finding of facts," without a copy of the transcript, and attempting "to follow attorney's [complaint counsel's] Proposed Findings as a guide." The hearing examiner caused the said document to be filed with the Secretary of the Commission, together with the required number of copies, as provided by the rules of the Commission, and an order was issued receiving the same as part of the record in this proceeding. It was further ordered that complaint counsel be allowed to file a reply thereto on or before December 6, 1968, and such reply was filed on said date.

The hearing examiner has given consideration to the proposed findings filed by the parties, and all proposed findings and conclusions not hereinafter specifically found or concluded are herewith rejected. Upon consideration of the entire record herein, the

