

Complaint

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IN THE MATTER OF

AMERICAN RETAIL BOARD OF TRADE, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-898. Complaint, May 18, 1965—Decision, May 18, 1965*

Consent order requiring a Springfield, Mo., collector of delinquent accounts, operating a small business with one office and one employee to assist with the individual respondent, to cease representing falsely, through the use of their trade name and the use of fictitious terms and statements in the course of business, that their business is a nationwide organization of retailers with corresponding attorneys and collectors affiliated with them.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the American Retail Board of Trade, Inc., a corporation, and Alvin B. Ayers, individually and as an officer of said corporation, hereinafter referred to as respondents, have 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, American Retail Board of Trade, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri with its office and principal place of business located at 1022 South Glenstone Street, M.P.O. 108, in the city of Springfield, State of Missouri.

Respondent Alvin B. Ayers is an officer of said corporation. He formulates, controls and directs the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. The address of the individual respondent is the same as that of the corporate respondent.

PAR. 2. Respondents now operate, and have operated for more than one year last past, a collection agency under the name American Retail Board of Trade, Inc. Business is secured by respondents by solicitation of agents.

Respondents use assignment forms upon which each delinquent account is listed showing the name of the debtor, address, date of indebtedness incurred and the amount due. These assignment forms are sent from respondents' place of business in the State of Missouri to creditors located in various States of the United States. The credi-

tor executes the form assigning the accounts, so listed, to respondents for collection on a commission basis, and returns it to respondents at Springfield or it is sent to respondents by one of their agents.

The debtors concerned reside in various States other than the State of Missouri. Respondents receive money from debtors located in States other than Missouri and transmit it, less their commission, to creditors who reside elsewhere than in Missouri. Respondents often receive checks from creditors representing debts paid direct to the creditor.

In carrying on their aforesaid business respondents maintain, and at all times hereinafter mentioned have maintained, a substantial course of trade in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 3. In the course and conduct of their business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with other corporations, firms and individuals engaged in the business of collecting alleged delinquent accounts.

PAR. 4. Through the use of the name American Retail Board of Trade, Inc., said respondents represented, and now represent, directly or by implication, that the corporate respondent is a nationwide organization of retailers.

PAR. 5. In truth and in fact, the corporate respondent is not an organization of retailers and has no connection with any organization of retailers but, on the contrary, the sole business of the respondents is the operation of an agency for the collection of alleged delinquent accounts.

Therefore, the statements and representations set forth in Paragraph Four are false, misleading and deceptive.

PAR. 6. Respondents, in the course and conduct of their aforesaid business, and for the purpose of inducing individuals, firms and corporations to sign the aforesaid assignments, as well as aiding in making collections from debtors, have made certain statements and representations, directly or by implication, with respect to their business. Typical, but not all inclusive, of such statements and representations are the following:

1. Nation-wide corresponding attorneys and collectors.
2. Dear Member.
3. Processing by our staff of experts is well under way.
4. Karl Quinn. Pre-Legal Dept.
5. Robert Formar. Collection Department.
6. Carl Stine, Manager, Collection Dept.
7. Manager—Legal Department.
8. J. W. Kerns, Pre-Legal Department.

PAR. 7. By and through the use of the aforesaid statements and representations, respondents represented, and now represent, directly or by implication, that:

1. The business of the respondents is nationwide in scope with corresponding attorneys and collectors directly affiliated and connected with them.

2. The corporate respondent is an organization having members.

3. The business of respondents is departmentalized and has a considerable staff of employees.

PAR. 8. In truth and in fact:

1. The business of the respondents is not nationwide in scope and does not have corresponding attorneys and collectors affiliated and connected with them but, on the contrary, respondents' business is a small one with no departments, one office and one employee to assist the individual respondent.

2. The corporate respondent has no members but, on the contrary, those designated as "members" are persons who have assigned alleged delinquent accounts to the respondents for collection.

Therefore, the statements and representations set forth in Paragraphs Six and Seven are false, misleading and deceptive.

PAR. 9. The use by respondents of the foregoing false, deceptive and misleading representations and practices has had, and now has, the tendency and capacity to mislead a substantial number of creditors and debtors into the erroneous and mistaken belief that such representations were, and are, true, and into the assignment of accounts to it for collection and in the collection of monies from debtors because of such mistaken and erroneous belief.

PAR. 10. The aforesaid acts and practices of respondents, as herein alleged, were, and are, all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, within the intent and meaning of 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 Bureau of Deceptive Practices 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 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 the respondents that the law has been violated as alleged in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having reason to believe that the respondents have violated the Federal Trade Commission Act, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings and enters the following order:

1. Respondent American Retail Board of Trade, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at 1022 South Glenstone Street, M.P.O. Box 108, in the city of Springfield, State of Missouri.

Respondent Alvin B. Ayers is an officer of said corporate respondent and his 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 the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents, American Retail Board of Trade, Inc., a corporation, and its officers, and Alvin B. Ayers, individually and as an officer of said corporation, and said respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the solicitation of accounts for collection, or the collection of, or attempts to collect accounts, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the name "American Retail Board of Trade, Inc." or any other name of similar import or meaning; or representing, directly or by implication, that they are an organization of retailers or are connected in any manner with an organization of retailers;

2. Representing in any manner, directly or by implication, that their business is other than that of a private collection agency engaged in collecting alleged past due accounts;

3. Representing, directly or by implication, that their business is nationwide in scope or that they have corresponding attorneys and collectors affiliated or connected with them;

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4. Misrepresenting the size of the business through the use of fictitious names or departments or by any other means;

5. Representing that the corporate respondent has members or designating the persons who assign accounts to the respondents as "members."

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

INTERSTATE TRAINING SERVICE CORPORATION ET AL.

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

Docket 5764. Complaint, Apr. 17, 1950—Decision, May 19, 1965

Order modifying cease and desist order of December 5, 1950, 47 F.T.C. 680, against sellers of a correspondence course in the operation, maintenance, and repair of Diesel engines, by modifying paragraphs 1, 2, 3, and 8 of the order prohibiting misrepresentation as to selection of students, length of course, relationship with manufacturers, and on-the-job training.

OPINION OF THE COMMISSION

On December 5, 1950 [47 F.T.C. 680], the Commission issued an order against respondents providing in pertinent part as follows:

It is ordered, That Conard E. Green and Leon A. Crouch, individually and as copartners trading under the name of Interstate Training Service, or trading under any other trade or partnership name, and their agents, representatives, and employees, directly or indirectly, through any corporate or other device, in connection with the sale, offering for sale or distribution of courses of study and instruction in Diesel training and training in heavy equipment and gasoline engines, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication:

1. That students are selected and accepted on the basis of their mechanical aptitude or upon the recommendation of respondents' representatives;
2. That the training in Diesel engine equipment may be completed in 1 year with 1 or 2 hours a day devoted to the study of the course;
3. That respondents work closely with manufacturers, contractors or others in the Diesel engine field;

* * * * *

7. That the opportunities for employment, improvement, and advancement in the field of Diesel equipment operation are unusual and unlimited for those

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who take respondents' course without many years of previous practical experience in that field;

8. That students receive resident shop or on-the-job training;

* * * * *

On March 15, 1965, respondents, by their attorneys, filed with the Commission an Amended Petition to Set Aside Cease and Desist Order. An answer partly in opposition to respondents' petition was filed by the Bureau of Deceptive Practices April 14, 1965.

Although respondents' petition alludes to prohibitions in the order other than those set forth above, it does not raise any substantial objection to them but rather confines itself to an assertion that respondents are in compliance.

Compliance with an order is not, under the Commission's Rules, sufficient reason for setting it aside, and accordingly in this opinion and order the Commission addresses itself solely to those prohibitions of the original order as to which respondents have submitted new facts and argument in favor of amendment, modification or excision.

In support of its petition that Paragraph 1 of the order be set aside respondents cite a catalog issued by them in conjunction with Interstate Training Service (ITS) Home Study Course 302 concerned with the maintenance, repair, and rebuilding of Cummins' Diesel engines. The catalog in question notes that enrollment in the course is restricted to "men who have demonstrated their interest in Diesel as a career" and is accordingly limited to persons who are qualified to take the course either by virtue of employment by Cummins Engine Company, in collaboration with which respondents offer the course, or because the applicant has had mechanical experience, or has completed preliminary Diesel courses offered by respondents or is employed by owners of Cummins' equipment.

In further support of their assertion that they should no longer be subjected to this proscription, respondents cite the affidavit of one H. M. Percifield, Manager, Service Development, Cummins Engine Company, Inc. Mr. Percifield attests that the qualification requirements for Course 302 are adhered to by Interstate Training Service.

In short, at least as to Course 302, it appears that respondent does make a determination as to the suitability of students and the affidavit of Mr. Percifield supports the assertion that the selectivity requirements as stated in the catalog are being met.

On the basis of the foregoing we are persuaded, as is the Bureau of Deceptive Practices, that the prohibition of our original order may be too rigorous, preventing as it does any representation as to selectivity and determination of qualifications. On the other hand,

apart from the Course 302, the supporting data provided by respondents that they are exercising a degree of selectivity and pre-determination of qualifications is supported only by an assertion in affidavits of respondent Green and one Fred Fulton, a member of the Accrediting Commission of the National Home Study Council, that such a selectivity and qualification program is in force and that the procedures of ITS conform to the standards established by the National Home Study Council Accrediting Commission, one of which requires the enrollment of only qualified students. This does not warrant excision of the provision in question. It does appear however that Paragraph 1 of our order should be modified to read as follows:

1. That students are selected or accepted on the basis of mechanical aptitude or upon the recommendation of respondents' representatives unless respondents are able to establish that selection is limited to persons having such aptitude or recommendation.

In support of its petition that Paragraph 2 of the order be set aside, respondent has furnished the affidavit of Earl M. Kruger, Director of the Diesel Division, Interstate Training Service Corporation, who offers the opinion that General Diesel Course 401 (50 manual) may indeed be completed within a period of 1 year with 1 or 2 hours devoted to study. This affidavit by an employee of respondent corporation does not of itself warrant a change in the original prohibition. Certainly it contains no new facts warranting a change.

However, as the Bureau of Deceptive Practices suggests, it would appear that this prohibition might be rephrased to permit truthful representation as to the period within which a course might be completed and yet provide adequate protection against deception. The following modified prohibition will accomplish this end:

2. That respondents' course of training in the maintenance, repair and operation of Diesel engines may be completed in any specified time unless respondents are able to establish either that all persons accepted pursuant to Paragraph 1 above may complete the training in the time specified or that in immediate conjunction with said representation respondents have clearly set forth the conditions or assumptions upon which said representation is based.

Respondents move that Paragraph 3 be stricken on the ground that they do in fact work closely with manufacturers, contractors and others. In support of their petition they have submitted 21 affidavits and supporting exhibits furnished by persons associated with manufacturers, contractors, etc. The affidavits in question make

a strong showing that respondents should be permitted to represent truthfully that they have a good relationship with such firms.

Accordingly, Paragraph 3 of our order will be modified to read as follows:

3. That respondents work closely with or have any other relationship with manufacturers, contractors or others in the Diesel engine field unless respondents are able to establish the existence of such relationship.

In support of their petition for vacating Paragraph 7, respondents have furnished the affidavits of H. M. Percifield, cited above, and of L. O. Edwards, Service Standards Analyst of Cummins Engine Company. The affidavit of Percifield in this context states only that graduates of Interstate Training Service Cummins' approved Home Study Course are better qualified to make the most of Cummins' training than they would be otherwise. The affidavit further acknowledges the value of Interstate Training Service courses. Mr. Percifield also notes that after completion of the Cummins' approved Diesel Home Study Course a person of normal ability, initiative and intelligence "will be able to obtain employment as an apprentice Diesel mechanic" and that his opportunity for improvement and advancement is very high.

The other affidavit, that of L. O. Edwards, indicates only that his association with Interstate Training Service has been very satisfactory and that Interstate is performing a very valuable service to the industry.

The short answer to respondents' petition in this connection is that these two affidavits provide no justification for amending Paragraph 7 of our order.

In regard to Paragraph 8, material submitted by respondents indicates that, by arrangement with the Cummins Engine Company, students meeting certain eligibility requirements may receive factory training at the Cummins' factory training center. It would appear that Paragraph 8 should be rephrased to enable respondent in its advertising to note such eligibility. Accordingly, Paragraph 8 of our order will be modified to read as follows:

8. That students receive resident shop or on-the-job training unless respondents are able to establish that such training is furnished and unless respondents clearly disclose all of the terms and conditions under which the training is furnished in immediate conjunction with any such representation.

Finally, respondents note that the language contained in our order referring to "Diesel training" and "training in Diesel engine equip-

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ment" is technically incorrect since one does not "train in Diesel engine equipment." Accordingly, the prohibitory preamble of our order will be changed to read as follows:

It is ordered, That Conard E. Green and Leon A. Crouch, individually and as copartners trading under the name of Interstate Training Service, or trading under any other trade or partnership name, and their agents, representatives, and employees, directly or indirectly, through any corporate or other device, in connection with the sale, offering for sale or distribution of courses of study and instruction in the operation, maintenance, and repair of Diesel engines, gasoline engines, and heavy equipment in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication:

An appropriate order will issue.

ORDER MODIFYING CEASE AND DESIST ORDER

By order dated August 5, 1964, the Commission having rescinded its order of July 31, 1964, denying respondents' petition to reopen this proceeding for modification of the Commission's order of December 5, 1950 [47 F.T.C. 680], and

The Commission having granted respondents' request for permission to file an Amended Petition to Set Aside Cease and Desist Order, and

The Commission having considered respondents' Amended Petition to Set Aside Cease and Desist Order filed March 15, 1965, and the answer thereto filed April 14, 1965, by the Acting Director, Bureau of Deceptive Practices, and

The Commission being of the opinion that its order to cease and desist entered in this proceeding on December 5, 1950, should in the public interest be modified,

It is ordered, That the Commission's order of December 5, 1950 [47 F.T.C. 680], be, and it hereby is, modified to read as follows:

It is ordered, That Conard E. Green and Leon A. Crouch, individually and as copartners trading under the name of Interstate Training Service, or trading under any other trade or partnership name, and their agents, representatives, and employees, directly or indirectly, through any corporate or other device, in connection with the sale, offering for sale or distribution of courses of study and instruction in the operation, maintenance, and repair of Diesel engines, gasoline engines, and heavy equipment in commerce, as "commerce" is defined in the Federal Trade

Commission Act, do forthwith cease and desist from representing directly or by implication:

1. That students are selected or accepted on the basis of mechanical aptitude or upon the recommendation of respondents' representatives unless respondents are able to establish that selection is limited to persons having such aptitude or recommendation;

2. That respondents' course of training in the maintenance, repair, and operation of Diesel engines may be completed in any specified time unless respondents are able to establish either that all persons accepted pursuant to Paragraph 1 above may complete the training in the time specified or that in immediate conjunction with said representation respondent has clearly set forth the conditions or assumptions upon which said representation is based;

3. That respondents work closely with or have any other relationship with manufacturers, contractors or others in the Diesel engine field unless respondents are able to establish the existence of such relationship;

4. That students, after completion of respondents' course, are qualified to operate, service, and repair any Diesel equipment, regardless of size or kind, and are able to compile cost estimates;

5. That students are assured or guaranteed employment after completion of respondents' course;

6. That the placement, consultation, and revision services and students' supplies furnished by respondents are free;

7. That the opportunities for employment, improvement, and advancement in the field of Diesel equipment operation are unusual and unlimited for those who take respondents' course without many years of previous practical experience in that field;

8. That students receive resident shop or on-the-job training unless respondents are able to establish that such training is furnished and unless respondents clearly disclose all of the terms and conditions under which the training is furnished in immediate conjunction with any such representation;

9. That respondents' salesmen are vocational advisors or field engineers, or that they are otherwise qualified to give prospective students aptitude tests;

10. That the Western Adjustment Bureau, or any other name used by respondents, or any of them, for the purpose of collecting money due them, is a separate or independent organization.

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It is further ordered, That Conard E. Green, Leon A. Crouch, and Jacob W. Spatz, individually or as partners, doing business under the name of the American Academy of Applied Science, or any other trade or partnership name, and their agents, representatives and employees, directly or indirectly, through any corporate or other device, in connection with the sale, offering for sale, or distribution of courses of study and instruction in fingerprinting or fingerprinting science, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication:

1. That the opportunities for employment and advancement in the field of fingerprinting and crime detection are unusual and unlimited for those who take respondents' course;

2. That the demand for men trained merely in courses such as respondents' is great and the supply inadequate;

3. That many fingerprint bureaus are being enlarged and many more planned;

4. That there is a position to suit every preference in the fingerprinting field or something which will appeal to every aptitude;

5. That salaries in the fingerprinting field are considerably above the average;

6. That fingerprinting work is filled with excitement and intrigue or packed with thrills, color, or romance;

7. That students are selected by respondents on the basis of aptitude and personality, or that the training is limited to those applicants who can qualify by nature or disposition for the work;

8. That the placement service or the equipment furnished by respondents is free to those taking the course;

9. That the United States Government is in need of those who take respondents' course;

10. That respondents employ "field representatives" or "division chiefs" other than salesmen.

It is further ordered, That the complaint herein be, and it hereby is, dismissed as to respondent Interstate Training Service, an Oregon corporation, and as to respondents Conard E. Green and Leon A. Crouch solely in their capacities as officers of said corporation.

It is further ordered, That Paragraph 8 of said complaint be, and it hereby is, dismissed as to all the respondents.

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IN THE MATTER OF

THE SUPER MART TRADING AS
SUPER YARN MARKETS, ETC.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE WOOL PRODUCTS LABELING ACTS

Docket C-899. Complaint, May 21, 1965—Decision, May 21, 1965

Consent order requiring Los Angeles, Calif., retailers of wool yarn and other wool products to cease misrepresenting the fiber content of its wool yarn by falsely labeling and advertising certain yarns as composed of 100% Mohair when such yarns contained less Mohair than represented and other woolen fibers, and failing to disclose the total fiber weight of its wool products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that The Super Mart, a corporation, trading as Super Yarn Markets, Super Yarn & Fabric Markets, and Super Yarn Mart, and Irving Hershey Gold, individually and as an officer of the Super Mart, hereinafter referred to as respondents, have violated the provisions of the said Acts and the Rules and Regulations promulgated under the Wool Products Labeling Act of 1939, 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 Super Mart, is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, and trades as Super Yarn Markets, Super Yarn & Fabric Markets, and Super Yarn Mart. Its office and principal place of business is located at 1233 South San Pedro Street, Los Angeles, California.

Individual respondent Irving Hershey Gold, is an officer of said corporate respondent and formulates, directs and controls the acts, policies and practices of said corporation. His address is the same as that of said corporation.

Respondents are retailers of wool products and maintain thirteen (13) branch outlets in addition to the above stated principal office.

PAR. 2. Subsequent to the effective date of the Wool Products Labeling Act of 1939, respondents have introduced into commerce, sold, transported, distributed, delivered for shipment and offered for

sale in commerce as "commence" is defined in said Act, wool products as "wool product" is defined therein.

PAR. 3. Certain of said wool products were misbranded within the intent and meaning of Section 4(a)(1) of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, in that they were falsely and deceptively stamped, tagged, labeled or otherwise identified with respect to the character and amount of the constituent fibers contained therein.

Among such misbranded wool products, but not limited thereto, were certain yarns stamped, tagged or labeled as containing 100% Mohair, whereas in truth and in fact, said yarns contained substantially less Mohair than represented and in addition contained a substantial amount of other woolen fibers.

PAR. 4. Certain of said wool products were further misbranded in that they were not stamped, tagged, labeled or otherwise identified as required under the provisions of Section 4(a)(2) of the Wool Products Labeling Act of 1939 and in the manner and form as prescribed by the Rules and Regulations promulgated under said Act.

Among such misbranded wool products, but not limited thereto, were certain yarns with labels on or affixed thereto which failed to disclose the percentage of the total fiber weight of the wool product, exclusive of ornamentation not exceeding 5 per centum of said total fiber weight, of (1) woolen fibers; (2) each fiber other than wool if said percentage by weight of such fiber is 5 per centum or more; and (3) the aggregate of all other fibers.

PAR. 5. Certain of said wool products were misbranded in violation of the Wool Products Labeling Act of 1939 in that they were not labeled in accordance with the Rules and Regulations promulgated thereunder in the following respects:

(a) The respective common generic names of fibers present in wool products were not used in naming such fibers in required information, in violation of Rule 8(a) of the aforesaid Rules and Regulations.

Among such misbranded wool products, but not limited thereto, were certain yarns with labels on or affixed thereto which described a portion of the fiber content as "Orlon" without using the common generic name of said fiber, "acrylic."

(b) The term "mohair" was used in lieu of the word "wool" in setting forth the required fiber content information on labels affixed to wool products when certain of the fibers so described were not

