Federal Trade Commission a report setting forth in detail the manner and form in which it intends to comply, is complying, and/or has complied with this order. All compliance reports shall include, among other things that may be from time to time required, a summary of all contacts and negotiations with potential purchasers of the assets to be divested under this order, the identity of all such potential purchasers, and copies of all written communications to and from such potential purchasers.

VI

*It is further ordered,* That Section IV of this order shall terminate if the Federal Trade Commission, through trade regulation rules or other like non-adjudicative industrywide proceedings, issues rules or guide lines covering the subject matter of this order.

VII

*It is further ordered,* That the Initial Decision of the hearing examiner be, and it hereby is, vacated.

VIII

The Federal Trade Commission may, from time to time and upon application by respondent, issue such further orders as it may deem appropriate or just.

Commissioners Reilly and Jones have dissented and have filed separate dissenting statements.

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## IN THE MATTER OF

## ALLIED ENTERPRIZES, INC., ET AL.

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

*Docket 8722. Complaint, Dec. 8, 1966—Decision, Apr. 11, 1967*

Order requiring a North Brentwood, Md., distributor of home intercom and fire detection or alarm systems to cease using deceptive referral and demonstration offers to obtain customer leads, misrepresenting that his prices are reduced or special or will result in savings to customer, neglecting to disclose that promissory notes will be sold to a finance company, and falsely representing that his products are new to the market.

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 Allied Enterprizes, Inc., a corporation, and William Marion, 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 Allied Enterprizes, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its principal office and place of business located at 4550 Rhode Island Avenue, North Brentwood, Maryland.

Respondent William Marion is now and has been an officer of the corporate respondent and formulates, directs and controls the acts and practices hereinafter set forth. His business address is the same as that of the corporate respondent.

PAR. 2. Respondents are now and for some time last past have been engaged in the offering for sale, sale and distribution of home intercom and fire detection systems to the public.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said products, when sold to be shipped from their place of business in the State of Maryland to purchasers thereof located in various other States of the United States and, in the District of Columbia, and maintain, and have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. 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 home intercom and fire detection systems of the same general kind and nature as those sold by respondents.

PAR. 5. Respondents in the course and conduct of their business, in offering for sale, selling and distributing their merchandise have engaged in and are engaging in the sale of said systems through a referral selling plan.

Said referral selling plan provides that purchasers will receive prizes in the amount of:

1. $100 for each person referred who purchases the Nutone Intercom System and Fire Alarm and Panic Alarm Systems.

2. $335 for the first (15) qualified demonstrations made through representatives.

3. $335 for the second (15) qualified demonstrations made through representatives.

4. $335 for the third (15) qualified demonstrations made through representatives.

In the event that the customer desires to participate in the plan and purchase the system from the respondents, he is presented with various documents including a contract, an application for a loan, a promissory note, a Customer's Commission Agreement, and Bonus Demonstration Guarantee.

The purchase of the said system from respondents and the execution of the proper instruments is a prerequisite consideration to participation in respondents' referral plan and any payments thereunder are based upon the chance that a referral named in the aforesaid instrument, in fact, will allow a demonstration of said products, and the chance that said referral's name has not been already given by a previous purchaser. Further payments thereunder are contingent upon the subsequent sale of the merchandise to such person.

PAR. 6. In the course and conduct of explaining their aforesaid referral plan, respondents and their salesmen have represented directly or indirectly to prospective purchasers:

1. That by their participation in respondents' program, purchasers will receive enough commissions from referrals to obtain their intercom systems at little or no cost.

2. That purchasers would receive from respondents sufficient money each month to take care of their monthly installments.

3. That the intercom system is a new product on the market and is being sold at a reduced price as an introductory or advertising plan, and that savings are thereby afforded to purchasers.

PAR. 7. In truth and in fact:

1. Few, if any participants in respondents' program receive enough referral commissions to obtain their intercom systems at little or no cost.

2. Few, if any participants receive sufficient money from respondents to take care of their monthly installments.

3. The intercom system is not a new product on the market, and is not being sold at a reduced price and savings are not thereby afforded to purchasers.

Therefore, the statements and representations referred to in

Paragraph Six above were and are false, misleading and deceptive.

PAR. 8. In the course and conduct of its business as aforesaid and for the purpose of inducing the sale of its said products, respondents or their salesmen fail to inform or to adequately disclose to prospective purchasers that their installment contracts or promissory notes will be discounted and sold to a third party, or that they are signing a deed of trust to secure the total payment of the purchase price of the intercom system, nor are customers or prospective purchasers adequately advised that they are held responsible for the total amount of the purchase contract regardless of any other agreements written or implied.

PAR. 9. The use by respondents of the aforesaid false, misleading and deceptive statements and representations and unfair or deceptive 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 are true and into the purchase of substantial quantities of respondents' product by reason of said erroneous and mistaken belief and by reason of said unfair or deceptive practices.

PAR. 10. The aforesaid acts and practices of respondents as alleged were and are all to the prejudice and injury of the public and respondents' competitors, and constituted and now constitute unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

*Mr. Sheldon Feldman* and *Mr. Robert E. Freer, Jr.*, supporting the complaint.

No appearance for respondents.

## INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

FEBRUARY 6, 1967

### I. *The Complaint and Accompanying Notice*

The complaint in this proceeding was issued on December 8, 1966, charging the respondents named therein with engaging in unfair or deceptive acts or practices in violation of Section 5 of the Federal Trade Commission Act. The respondents were duly served with the complaint and the accompanying notice, which informed them that they were afforded 30 days, after service of the complaint upon them, within which to file an answer to the allegations of the complaint.

The respondents were also given notice that on the 30th day of January 1967, at 10:00 a.m., at the Federal Trade Commission offices, The 1101 Building, 11th Street and Pennsylvania Avenue, NW., Washington, D.C., a hearing would be held on the charges set forth in the complaint, at which time respondents would have the right, under the Federal Trade Commission Act, to appear and show cause why an order should not be entered requiring them to cease and desist from the violations of law charged in the complaint.

## II. *The Hearing and Default Judgment*

At the hearing held herein on January 30, 1967, the respondents failed to appear either in person or by counsel, and counsel supporting the complaint moved the hearing examiner to enter a default judgment against respondents. In support of their motion counsel showed that the respondents had not, within the 30-day period prescribed in the notice accompanying the complaint, submitted an answer to the complaint and that under the provisions of Section 3.5(c) of the Commission's Rules of Practice for Adjudicative Proceedings a default judgment should be entered. The motion was duly granted and the record closed against the further presentation of evidence.

## III. *Findings as to the Facts*

1. Respondent Allied Enterprizes, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its principal office and place of business located at 4550 Rhode Island Avenue, North Brentwood, Maryland.

Respondent William Marion is now and has been an officer of the corporate respondent and formulates, directs and controls the acts and practices hereinafter set forth. His business address is the same as that of the corporate respondent.

2. Respondents are now and for some time last past have been engaged in the offering for sale, sale and distribution of home intercom and fire detection systems to the public.

3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said products, when sold, to be shipped from their place of business in the State of Maryland to purchasers thereof located in various other States of the United States and in the District of Columbia, and maintain, and have maintained, a substantial course of trade in

said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

4. 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 home intercom and fire detection systems of the same general kind and nature as those sold by respondents.

5. Respondents in the course and conduct of their business, in offering for sale, selling and distributing their merchandise have engaged in and are engaging in the sale of said systems through a referral selling plan.

Said referral selling plan provides that purchasers will receive prizes in the amount of:

a. $100 for each person referred who purchases the Nutone Intercom System and Fire Alarm and Panic Alarm Systems.

b. $335 for the first fifteen (15) qualified demonstrations made through representatives.

c. $335 for the second fifteen (15) qualified demonstrations made through representatives.

d. $335 for the third fifteen (15) qualified demonstrations made through representatives.

In the event that the customer desires to participate in the plan and purchase the system from the respondents, he is presented with various documents including a contract, an application for a loan, a promissory note, a Customer's Commission Agreement, and Bonus Demonstration Guarantee.

The purchase of the said system from respondents and the execution of the proper instruments is a prerequisite consideration to participation in respondents' referral plan and any payments thereunder are based upon the chance that a referral named in the aforesaid instrument, in fact, will allow a demonstration of said products, and the chance that said referral's name has not been already given by a previous purchaser. Further payments thereunder are contingent upon the subsequent sale of the merchandise to such person.

6. In the course and conduct of explaining their aforesaid referral plan, respondents and their salesmen have represented directly or indirectly to prospective purchasers:

a. That by their participation in respondents' program, purchasers will receive enough commissions from referrals to obtain their intercom systems at little or no cost.

b. That purchasers would receive from respondents sufficient money each month to take care of their monthly installments.

c. That the intercom system is a new product on the market and is being sold at a reduced price as an introductory or advertising plan, and that savings are thereby afforded to purchasers.

7. In truth and in fact:

a. Few, if any, participants in respondents' program receive enough referral commissions to obtain their intercom systems at little or no cost.

b. Few, if any, participants received sufficient money from respondents to take care of their monthly installments.

c. The intercom system is not a new product on the market, and is not being sold at a reduced price and savings are not thereby afforded to purchasers.

Therefore, the statements and representations referred to in Paragraph 6 above were, and are, false, misleading and deceptive.

8. In the course and conduct of its business as aforesaid and for the purpose of inducing the sale of its said products, respondents or their salesmen fail to inform or to adequately disclose to prospective purchasers that their installment contracts or promissory notes will be discounted and sold to a third party, or that they are signing a deed of trust to secure the total payment of the purchase price of the intercom system, nor are customers or prospective purchasers adequately advised that they are held responsible for the total amount of the purchase contract regardless of any other agreements written or implied.

## IV. *Conclusions*

The use by respondents of the aforesaid false, misleading and deceptive statements and representations and unfair or deceptive 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 are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief and by reason of said unfair or deceptive practices.

The aforesaid acts and practices of respondents as herein found were, and are, all to the prejudice and injury of the public and respondents' competitors; they constituted, and now constitute unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce, in violation of Section 5 of the Federal Trade Commission Act; and this proceeding is in the public interest.

ORDER

*It is ordered,* That respondents Allied Enterprizes, Inc., a corporation, and its officers, and William Marion, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of intercom, fire detection or alarm systems, or any other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Utilizing any program or plan under which the payment of money or other consideration to purchasers of respondents' products is contingent upon (1) the referral of names by such purchasers to respondents or their agents, representatives or employees and (2) the sale or demonstration of respondents' merchandise to such referrals.

2. Using any sales plan, scheme or device wherein false, misleading or deceptive statements or representations are made for the purpose of obtaining leads or the names of propective purchasers.

3. Representing, directly or by implication, that respondents' customers are able to obtain respondents' products at little or no cost, or will receive earnings or compensation in any amount.

4. Failing to disclose orally at the time of sale and in writing on any conditional sales contract, promissory note or other instrument executed by the purchaser, with such conspicuousness and clarity as is likely to be read and observed by the purchaser that:

(a) Such conditional sales contract, promissory note or other instrument may, at the option of the seller and without notice to the purchaser, be negotiated or assigned to a finance company or other third party;

(b) If such negotiation or assignment is effected, the purchaser will then owe the amount due under the contract to the finance company or third party and may have to pay this amount in full whether or not he has claims against the seller under the contract for defects in the merchandise, nondelivery or the like.

5. Failing to reveal, disclose or otherwise inform customers, in a manner that is clearly understood by them, of all the terms and conditions of a sale and of any installment

contract or promissory note or other instrument to be signed by any customer.

6. Representing directly or by implication that any price at which respondents' merchandise is offered for sale is a special introductory price or a reduced price.

7. Misrepresenting in any way the savings realized by purchasers of respondents' merchandise.

8. Falsely representing that any such merchandise or product is new to the market.

FINAL ORDER

No appeal from the initial decision of the hearing examiner having been filed, and the Commission having determined that the case should not be placed on its own docket for review and that pursuant to Section 3.21 of the Commission's Rules of Practice (effective August 1, 1963), the initial decision should be adopted and issued as the decision of the Commission:

*It is ordered,* That the initial decision of the hearing examiner shall, on the 11th day of April, 1967, become the decision of the Commission.

*It is further ordered,* That Allied Enterprizes, Inc., a corporation, and William Marion, individually, and as an officer of said corporation, shall, within sixty (60) days after service of this order upon them, file with the Commission a report in writing, signed by each respondent named in this order, setting forth in detail the manner and form of their compliance with the order to cease and desist.

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IN THE MATTER OF

## SUNRISE FASHIONS, INC., ET AL.

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

*Docket C-1191. Complaint, April 11, 1967—Decision, April 11, 1967*

Consent order requiring a New York City manufacturer of woolen garments to cease misbranding 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 Sunrise Fashions, Inc., a corporation, and Hyman Singer and Richard Singer, individually and as officers of said corporation, sometimes hereinafter referred to as respondents, have violated the provisions of 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 Sunrise Fashions, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

Respondents Hyman Singer and Richard Singer are officers of the corporate respondent. They formulate, direct and control the acts, practices and policies of said corporate respondent, including those hereinafter set forth.

Respondents are engaged in the manufacture of wool products, including ladies' raincoats and car coats, with their office and principal place of business located at 265 West 37th Street, New York, New York.

PAR. 2. Respondents, now and for some time last past, have manufactured for introduction into commerce, introduced into commerce, sold, transported, distributed, delivered for shipment, shipped, and offered for sale, in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939, wool products as "wool product" is defined therein.

PAR. 3. Certain of said wool products were misbranded by the respondents within the intent and meaning of Section 4(a)(1) of the Wool Products Labeling Act of 1939 and 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 ladies coats stamped, tagged, labeled, or otherwise identified by respondents as 12% Reprocessed wool, 28% Linen, 20% Cotton, and 40% Rayon, whereas in truth and in fact, said products contained substantially different fibers and amounts of fiber than represented.

PAR. 4. Certain of said wool products were further misbranded by respondents in that they were not stamped, tagged, labeled, or otherwise identified as required under the provisions of Sec-

tion 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, was a wool product with a label on or affixed thereto which failed to disclose the percentage of the total fiber weight of the said wool product, exclusive of ornamentation not exceeding 5% of the total fiber weight, of (1) wool; (2) reprocessed wool; (3) reused wool; (4) each fiber other than wool, when said percentage by weight of such fiber was 5% or more; and (5) the aggregate of all other fibers.

PAR. 5. The acts and practices of the respondents as set forth above were, and are, in violation of the Wool Products Labeling Act of 1939 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 within the 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 Textiles and Furs 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 Wool Products Labeling Act of 1939; 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 said Acts, 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 Sunrise Fashions, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of

business located at 265 West 37th Street, New York, New York.

Respondents Hyman Singer and Richard Singer are officers of the said corporation and their address is the same as that of said corporation.

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 Sunrise Fashions, Inc., a corporation, and its officers, and Hyman Singer and Richard Singer, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction, into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment or shipment, in commerce, of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

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

2. Failing to securely affix to, or place on, each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by Section 4(a)(2) of the Wool Products Labeling Act of 1939.

*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.

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## IN THE MATTER OF

## CROWN TUFT, INC., ET AL.

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

*Docket C-1192. Complaint, April 11, 1967—Decision, April 11, 1967*

Consent order requiring a Dalton, Ga., manufacturer of carpet rolls to cease misbranding its textile fiber products.

## 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 Crown Tuft, Inc., a corporation, and Arthur B. Lauman and James C. Barbre, individually and as officers of said corporation, 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 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 Crown Tuft, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia. Its office and principal place of business is located at 444 North Hamilton Street, Dalton, Georgia.

Individual respondents Arthur B. Lauman and James C. Barbre are officers of said corporate respondent. They formulate, direct and control the acts, practices and policies of the said corporation. Their office and principal place of business is the same as that of said corporate respondent.

The respondents are engaged in the manufacture and sale of carpet rolls.

PAR. 2. Subsequent to the effective date of the Textile Fiber Products Identification Act on March 3, 1960, respondents have been and are now 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 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 product" 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, advertised, or otherwise identified as to the name or amount of the constituent fibers contained therein.

Among such textile fiber products, but not limited thereto, were carpet rolls labeled by respondents as "⅓ acrylic, ⅓ wool, ⅓ nylon," whereas, in truth and in fact, such carpet rolls contained substantially different types and amounts of fibers than as represented.

PAR. 4. Certain of said textile fiber products were further misbranded by respondents in that they were not stamped, tagged, labeled, or otherwise identified as to each element of information required to be disclosed by 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 carpet rolls with labels which failed:

(1) To disclose the true generic name of the fibers present; and

(2) To disclose the true percentage of the fibers present 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) In disclosing the constituent fibers in the required information, in instances other than those permitted by Section 4(b) of the Textile Fiber Products Identification Act, a textile fiber present in the amount of less than five per centum of the textile fiber weight of the said textile fiber product, was not designated by the term "other fiber," in violation of Rule 3 of the aforesaid Rules and Regulations.

(b) Required information was set forth on labels in an abbreviated form in instances other than as Rule 33(d) of the Rules and Regulations, in violation of Rule 5 of said Rules and Regulations.

(c) Fiber trademarks were used on labels without a full and complete fiber content disclosure appearing on such labels in accordance with the said Act and Regulations, the first time such fiber trademarks were used on the labels, in violation of Rule 17(b) of the aforesaid Rules and Regulations.

PAR. 6. 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