

Complaint

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IN THE MATTER OF

VANITY FAIR MILLS, INC.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT*Docket C-1390. Complaint, July 25, 1968—Decision, July 25, 1968*

Consent order requiring a Reading, Pa., manufacturer of women's lingerie to cease conspiring with its retail outlets to fix the resale prices of its merchandise and utilizing other anticompetitive practices.

COMPLAINT

The Federal Trade Commission, having reason to believe that the corporation named as respondent in the caption hereof, and more particularly designated and described hereinafter, has violated and is now violating the provisions of Section 5 of the Federal Trade Commission Act (15 U.S.C. Sec. 45), 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 with respect thereto as follows:

PARAGRAPH 1. Respondent, Vanity Fair Mills, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located at 1047 North Park Road, Wyomissing, Reading, Pennsylvania.

PAR. 2. Respondent has been and is now engaged in the business of manufacture, sale and distribution of women's lingerie and foundation garments with net sales in 1965 in excess of \$52,000,000.

Respondent manufactures its products in seven plants located in the State of Alabama. It sells directly to approximately 2,000 retail department stores and specialty shops representing about 3,300 store locations throughout the United States and the District of Columbia through its own salesmen operating out of four main sales showrooms in New York, New York; Dallas, Texas; Los Angeles, California, and San Francisco, California.

PAR. 3. In the course and conduct of its business, respondent has engaged and is now engaging in commerce as "commerce" is defined in the Federal Trade Commission Act. Respondent has caused and now causes its various products to be shipped and transported from the State of manufacture to purchasers located in States other than the State wherein said shipments originate.

PAR. 4. Except to the extent that competition has been hin-

dered, frustrated, lessened and eliminated as set forth in this complaint, respondent has been and is now in competition with other persons, firms and corporations likewise engaged in the manufacture, sale and distribution in commerce of women's lingerie and foundation garments.

PAR. 5. Respondent, in combination, agreement, understanding, and conspiracy with its retail accounts, or some of them with the cooperation or acquiescence of others, is now and for the last several years has been establishing, maintaining and pursuing a planned course of action to fix and maintain certain specified uniform prices at which respondent's products are resold. In furtherance of said combination, agreement, understanding and conspiracy, respondent is now and for the past several years has been engaging in the following acts and practices, among others:

- (a) Establishing regular resale prices.
- (b) Preticketing its products with the established regular resale prices imprinted thereon.
- (c) Regularly furnishing all retail accounts with lists and necessary supplements containing the established regular resale prices.
- (d) Agreeing with its retail accounts to contribute 50% toward their costs for regular newspaper advertising for respondent's products on the condition that said retailers advertise and sell at respondent's established resale prices.
- (e) Agreeing with its retail accounts to contribute 50% toward their costs for certain promotional newspaper advertising for respondent's products on the condition that said retailers not begin advertising said promotions before the date announced by respondent.
- (f) Restricting the number of times annually during which respondent's special and regular stock merchandise may be offered on sale by its retail accounts.
- (g) Establishing specific dates for the advertising, commencement and conclusion of certain special sales on respondent's merchandise.
- (h) Agreeing with its retail accounts that said accounts should not use its name in newspaper advertising for discontinued merchandise being offered for sale at reduced prices.
- (i) Actively seeking or securing, through the use of salesmen or others, the cooperation, participation or agreement of retail accounts in the practices described herein.
- (j) Using suggested resale prices in its own national advertising.

PAR. 6 By means of all the aforesaid acts and practices, and more, respondent in combination, agreement, understanding and conspiracy with certain of its retail accounts and with the acquiescence of others, establishes, maintains and pursues a planned course of action to fix and maintain certain specified uniform prices at which respondent's products will be resold.

PAR. 7. The acts and practices of respondent by and through combining, agreeing, understanding, and conspiring with its retail accounts, as hereinabove described, for the last several years have been and are now having the effect of hindering, lessening, restricting, restraining and eliminating competition in the sale of respondent's lingerie and foundation garments; and constitute unfair methods of competition in commerce, all in derogation of the public interest and in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondent named in the caption hereof with violation of the Federal Trade Commission Act, and the respondent having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

The respondent 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 complaint to issue herein, 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 considered the agreement and having accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Vanity Fair Mills, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its office and principal place of business located at 1047 North Park Road, Wyomissing, Read-

ing, Pennsylvania.

2. 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

It is ordered, That respondent, Vanity Fair Mills, Inc., a corporation, its officers, and representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of women's lingerie or foundation garments in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Entering into any form of combination, agreement, understanding or conspiracy with its retail accounts which fixes or tampers with the resale prices of respondent's merchandise: *Provided, however,* That nothing in this order shall prohibit respondent from suggesting resale prices.
2. Preticketing its products with a resale price imprinted thereon without stating on said ticket that the price is suggested or approximate.
3. Distributing resale price lists without stating on said lists that the prices are suggested or approximate.
4. Conditioning payments of any advertising allowance to its retail accounts on advertising only respondent's suggested regular or reduced resale prices.
5. Conditioning payments of any advertising allowance to its retail accounts on advertising reduced resale price sales on specified dates only.
6. Restricting the number of times during which respondent's special or regular stock merchandise may be offered at reduced resale prices by its retail accounts.
7. Announcing dates other than suggested dates for the advertising, commencement or conclusion of any reduced resale price sale of respondent's merchandise.
8. Refusing to permit its retail accounts to use its name in newspaper advertising for discontinued merchandise being offered for sale at reduced resale prices.
9. Seeking or securing, through the use of salesmen or others, the cooperation, participation or agreement of retail accounts, in any violation of any of the provisions of this order.
10. Using resale prices in its own local or national ad-

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vertising without stating that said prices are suggested or approximate.

Nothing in the order shall be interpreted to prohibit respondent from entering into, establishing, maintaining, and enforcing in any lawful manner any price agreement excepted from the provisions of the Federal Trade Commission Act by virtue of the McGuire Act amendments to said Act or any other applicable statutes, whether now in effect or hereafter enacted.

It is further ordered, That respondent, within sixty (60) days after the effective date of this order notify each of its retail accounts of this cease and desist order by mailing them a copy thereof together with a copy of the attached letter.

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

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon 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.

DEAR CUSTOMER: Vanity Fair Mills, Inc., has entered into an agreement with the Federal Trade Commission relating to the Company's distributional activities. A copy of the consent order entered into pursuant to that agreement is hereto annexed.

Vanity Fair has entered into this agreement solely for the purpose of settling a dispute with the Commission, and the agreement is not to be construed as an admission by the Company that it has violated any of the laws administered by the Commission. Instead, the order merely relates to the activities of Vanity Fair in the future.

In order that you may most readily understand the terms of the order, we have set forth below the essentials of the agreement with the Commission, although you must realize that the order itself is controlling rather than the following explanation of its provisions:

While Vanity Fair may announce in advance its merchandising policies and deal only with those customers it chooses, Vanity Fair may not conspire or seek agreements with its customers to follow Vanity Fair's announced policies.

Specifically, this means that Vanity Fair is permitted to suggest the resale price at which it believes its merchandise was manufactured to sell, distribute suggested resale price lists, and preticket with suggested prices. Vanity Fair may not, however, solicit the agreement of its customers to adhere to those sug-

gested prices since they are not binding, or restrict the number of times when a customer may offer special or regular merchandise at reduced resale prices. Furthermore, Vanity Fair may not condition the payment of advertising allowances on a customer's adherence to the Vanity Fair suggested resale price.

Additionally, Vanity Fair is permitted to suggest the commencement or conclusion date of reduced resale price sales, such as the Pechglo and foundation sales. But Vanity Fair may not solicit the agreement of its customers to adhere to those suggested dates since they are not binding. Nor may Vanity Fair condition the payment of advertising allowances on a customer's adherence to suggested reduced resale price dates.

Finally, Vanity Fair will not object to the use of the Vanity Fair name in the advertising of discontinued merchandise, but care must be taken that such advertising is not misleading.

IN THE MATTER OF

DIAMOND NOVELTIES, INC., DOING BUSINESS AS
FABULOUS DIAMOND'S ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION AND THE
FLAMMABLE FABRICS ACTS

Docket C-1391. Complaint, July 25, 1968—Decision, July 25, 1968

Consent order requiring a Miami, Fla., retailer and wholesaler of novelties, party decorations, and fabrics to cease marketing dangerously flammable fabrics.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Diamond Novelties, Inc., a corporation, doing business under its own name and as Fabulous Diamonds, and Sidney Diamond, individually and as an officer of said Corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Flammable Fabrics Act, as amended, 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 Diamond Novelties 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 655 N.W. 57th Avenue, Miami, Florida.

Respondent Sidney Diamond is an officer of the aforesaid corporation. He formulates, directs and controls the acts, practices and policies of said corporation. His address is the same as that of the corporate respondent.

Respondents are retailers and wholesalers of novelties, party decorations, fabrics and artificial flowers.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the sale and offering for sale, in commerce, and have introduced, delivered for introduction, transported and caused to be transported in commerce, and have sold or delivered after sale or shipment in commerce, fabrics as the terms "commerce" and "fabric" are defined in the Flammable Fabrics Act, which fabric failed to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the Flammable Fabrics Act, as amended.

Among such fabrics mentioned hereinabove were wood fiber chips.

PAR. 3. The aforesaid acts and practices of respondents were and are in violation of the Flammable Fabrics Act, as amended, and the Rules and Regulations promulgated thereunder, and as such constitute unfair methods of competition 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 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 Flammable Fabrics Act, as amended; 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 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 Acts, 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 thirty (30) days, now in further conformity with the procedure prescribed in § 2.34 (b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Diamond Novelties, 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 655 N.W. 57th Avenue, Miami, Florida.

Respondent Sidney Diamond is an officer of said corporation and his 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 Diamond Novelties, Inc., a corporation, doing business under its own name and as Fabulous Diamond's, or any other name, and its officers, and Sidney Diamond, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any fabric as "commerce" and "fabric" are defined in the Flammable Fabrics Act as amended, which fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That the respondents herein shall, within ten (10) days after service upon them of this Order, file with the Commission an interim special report in writing setting forth the respondents' intention as to compliance with this Order. This

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interim special report shall also advise the Commission fully and specifically concerning the identity of the fabric which gave rise to the complaint, (1) the amount of such fabric in inventory, (2) any action taken to notify customers of the flammability of such fabric and the results thereof and (3) any disposition of such fabric since February 21, 1968. Such report shall further inform the Commission whether respondents have in inventory any fabric, product or related material having a plain surface and made of silk, rayon or cotton or combinations thereof in a weight of two ounces or less per square yard or fabric with a raised fiber surface made of cotton or rayon or combinations thereof. Respondents will submit samples of any such fabric, product or related material with this report. Samples of the fabric, product or related material shall be of no less than one square yard of material.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of the Order to each of its operating divisions.

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 of their compliance with this order.

IN THE MATTER OF

ANTOINETTE T. SEARLES TRADING AS
PROFILS DU MONDE

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

Docket C-1392. Complaint, July 26, 1968—Decision, July 26, 1968

Consent order requiring a Beverly Hills, Calif., retailer of wearing apparel to cease marketing dangerously flammable products and misbranding its textile fiber products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, the Flammable Fabrics 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 Antoinette T. Searles, an individual trading as Profils Du Monde, hereinafter referred to as respondent,

has violated the provisions of said Acts and the Rules and Regulations promulgated under the Flammable Fabrics Act, as amended, 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, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Antoinette T. Searles is an individual trading as Profils Du Monde. She is engaged in the sale and distribution of wearing apparel, including, but not limited to, ladies' scarves. The business address of the respondent is 9567 Wilshire Boulevard, Beverly Hills, California.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the sale and offering for sale, in commerce, and has introduced, delivered for introduction, transported and caused to be transported in commerce, and has sold or delivered after sale or shipment in commerce, products, as the terms "commerce" and "product" are defined in the Flammable Fabrics Act, which products failed to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the Flammable Fabrics Act, as amended.

Among such products mentioned hereinabove were ladies' scarves.

PAR. 3. The aforesaid acts and practices of respondent were, and are in violation of the Flammable Fabrics Act, as amended, 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, within the intent and meaning of the Federal Trade Commission Act.

PAR. 4. Respondent is now and for some time last past has been engaged in the introduction, delivery 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 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. 5. Certain of the textile fiber products were misbranded by respondent in that they were not stamped, tagged, labeled, or

otherwise identified to show 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 prescribed by the Rules and Regulations promulgated under said Act.

Among such misbranded textile fiber products, but not limited thereto, were scarves with labels which failed:

- (a) To disclose the generic names of the fibers present; and
- (b) To disclose the true percentage of the fibers present by weight.

PAR. 6. Respondent, in violation of Section 5(a) of the Textile Fiber Products Identification Act has caused and participated in the removal or mutilation 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. The acts and practices of respondent, as set forth above in Paragraphs Five and Six 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.

DECISIONS 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 Bureau of Textiles and Furs 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, the Textile Fiber Products Identification Act and the Flammable Fabrics Act, as amended; and

The respondent 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 Acts, 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 thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Antoinette T. Searles is an individual trading as Profils Du Monde under and by virtue of the laws of the State of California, with her office and principal place of business located at 9567 Wilshire Boulevard, Beverly Hills, California.

2. 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

It is ordered, That respondent Antoinette T. Searles, an individual trading as Profils Du Monde, or under any other name, and respondent's representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product as "commerce" and "product" are defined in the Flammable Fabrics Act, as amended, which fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondent herein shall, within ten (10) days after service upon her of this Order, file with the Commission an interim special report in writing setting forth the respondent's intention as to compliance with this Order. This interim special report shall also advise the Commission fully and specifically concerning identity of the product which gave rise to the complaint, (1) the amount of such product in inventory, (2) any action taken to notify customers of the flammability of such product and the results thereof and (3) any disposition of such product since August 29, 1967. Such report shall further inform

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the Commission whether respondent has in inventory any fabric, product or related material having a plain surface and made of silk, rayon or cotton or combinations thereof in a weight of two ounces or less per square yard or with a raised surface made of cotton or rayon or combinations thereof. Respondent will submit samples of any such fabric, product or related material with this report. Samples of the fabric, product or related material shall be of no less than one square yard of material.

It is further ordered, That respondent Antoinette T. Searles, an individual trading as Profils Du Monde, or under any other name, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, manufacture for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or 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, of any textile fiber product which has been advertised or offered for sale in commerce; 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 other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from 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.

It is further ordered, That respondent Antoinette T. Searles, an individual trading as Profils Du Monde, or under any other name, and respondent's representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from removing or mutilating, or causing or participating in the removal or mutilation of, the stamp, tag, label or other identification required by the Textile Fiber Products Identification Act to be affixed to any textile fiber product, after such textile fiber product has been shipped in commerce and prior to the time such textile fiber product is sold and delivered to the ultimate consumer, without substituting therefor labels conforming to Section 4 of said Act and the Rules and Regulations promulgated thereunder and in the manner prescribed by Section

