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IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

_____)	
UNITED STATES OF AMERICA,)	Case No. 97-4085 LGB (RnBx)
)	
Plaintiff,)	COMPLAINT FOR CIVIL
)	PENALTIES, INJUNCTIVE
v.)	AND OTHER RELIEF
)	
WESTPOINT STEVENS INC.)	
a corporation,)	
)	
Defendant.)	
)	
_____)	

Plaintiff, the United States of America, acting upon the notification and authorization to the Attorney General by the Federal Trade Commission ("Commission"), for its complaint alleges that:

1. Plaintiff brings this action under Sections 5(a)(1), 5(m)(1)(B), 9, 13(b), and 16(a) of the Federal Trade Commission Act as amended ("FTC Act"), 15 U.S.C. §§ 45(a)(1), 45(m)(1)(B), 49, 53(b), and 56(a), to obtain monetary civil penalties, injunctive and other relief for defendant's violations of the Textile Fiber Products Identification Act ("Textile Act"), 15 U.S.C. §§ 70-70k, and injunctive relief for violations of Section 5(a)(1) of the Federal Trade Commission Act, 15 U.S.C. § 45(a)(1).

JURISDICTION AND VENUE

2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355 and to 15 U.S.C. §§ 45(m)(1)(B), 49, 53(b), and 56(a). This action arises under

meaning of this Act or the rules and regulations promulgated thereunder, is unlawful, and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

PRIOR COMMISSION PROCEEDINGS CONCERNING
MISBRANDING OF TEXTILE FIBER PRODUCTS

7. The Commission has determined that certain acts or practices in connection with the labeling and importing of textile fiber products are unfair or deceptive and are unlawful under the Textile Act, 15 U.S.C. §§ 70-70k, and Section 5(a)(1) of the FTC Act, 15 U.S.C. § 45(a)(1). These determinations were made in proceedings under Section 5(b) of the FTC Act, 15 U.S.C. § 45(b). In these proceedings, the Commission issued final cease and desist orders in which the Commission determined that:

a. It is an unfair or deceptive act or practice to falsely or deceptively stamp, tag, label, invoice, advertise or otherwise identify any textile fiber product as to the name or amount of constituent fibers contained therein. H. Myerson Sons, et al., 78 F.T.C. 464 (1971); Taylor-Friedsam Co., Inc., et al., 69 F.T.C. 483 (1966); Verrazzano Trading Corporation, et al., 91 F.T.C. 888 (1978).

b. It is an unfair or deceptive act or practice to furnish a false guarantee that a textile fiber product is not misbranded or otherwise misrepresented under the provisions of the Textile Fiber Products Identification Act. Taylor-Friedsam Co., Inc., et al., supra.

8. WestPoint Stevens Inc. is the successor company resulting from a merger between J.P. Stevens & Co., Inc. and West Point-Pepperell, Inc. in 1988. Prior to the merger the Commission sent each of the merging parties, by certified mail, return receipt requested, a letter stating that the Commission, in the proceedings described in Paragraph 7 above, had determined that the acts and practices set forth in Paragraph 7 above, inter alia, are unfair or deceptive and unlawful under the Textile Act, 15 U.S.C. §§ 70-70k, and Section 5(a)(1) of the FTC Act, 15 U.S.C. § 45(a)(1). The letters also notified them of their liability for civil penalties under Section 5(m)(1)(B) of the FTC Act, 15 U.S.C. § 45(m)(1)(B), for knowingly engaging in acts or practices determined by the Commission to be unfair or deceptive and unlawful. Enclosed with each letter was a synopsis of the Commission's determinations under the Textile Act, 15 U.S.C. §§ 70-70k; a copy of Section 5(m) of the FTC Act, 15 U.S.C. § 45(m); a copy of the Textile Act, 15 U.S.C. §§ 70-70k; and

advertising, offering for sale or sale of "textile fiber products," as that term is defined in Section 2 of the Textile Act, 15 U.S.C. § 70, defendant misbranded numerous textile fiber products as to the amount of constituent fibers contained therein: e.g., labels and package inserts indicated that towels and sheets were made entirely of Pima cotton when in fact they were composed of six to fifty percent Pima cotton.

11. By engaging in the acts and practices set forth in Paragraph 10 above, defendant has violated the Textile Act, 15 U.S.C. §§ 70-70k, and Section 5(a)(1) of the FTC Act, 15 U.S.C. § 45(a)(1).

COUNT II

12. Paragraphs one through nine are incorporated by reference.

13. On or about February 3, 1994, WestPoint Stevens Inc. filed a continuing guarantee with the Commission stating that the company guarantees that when it ships or delivers any textile fiber product, the product will not be misbranded, falsely or deceptively invoiced, or falsely or deceptively advertised, within the meaning of the Textile Fiber Products Identification Act and the rules and regulations under that Act.

14. After the continuing guarantee was filed with the Commission, WestPoint Stevens Inc. misbranded numerous textile fiber products as to the amount of constituent fibers contained therein: e.g., labels and package inserts indicated that towels and sheets were made entirely of Pima Cotton when in fact they were composed of six to fifty percent Pima cotton. Therefore, the guarantee was false. The furnishing of a false guarantee is a violation of the

Textile Act, 15 U.S.C. §§ 70-70k, and Section 5(a)(1) of the FTC Act, 15 U.S.C. § 45(a)(1).

CIVIL PENALTIES

15. At the time it engaged in the acts and practices set forth in Paragraphs 10 and 14 above, defendant had actual knowledge that such acts and practices were unfair or deceptive and unlawful pursuant to Section 5(a)(1) of the FTC Act, 15 U.S.C. § 45(a)(1). Defendant, therefore, engaged in such acts or practices with actual knowledge as set forth in Section 5(m)(1)(B) of the FTC Act, 15 U.S.C. § 45(m)(1)(B).

16. During the five years preceding the filing of this complaint, each misbranded textile fiber product that the defendant imported, manufactured for introduction in commerce, introduced, advertised, offered for sale, or sold, as set forth in Paragraph 10 above, and each false guarantee as set forth in Paragraph 14 above, constitutes a separate violation of the Textile Act for the purpose of computing civil penalties.

17. Section 5(m)(1)(B) of the FTC Act, 15 U.S.C. § 45(m)(1)(B), authorizes the Court to award monetary civil penalties of not more

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PRAYER FOR RELIEF

WHEREFORE, plaintiff requests this Court, pursuant to 15 U.S.C. §§ 45(a)(1), 45(m)(1)(B), 49 and 53(b) and the Court's own equity powers:

(1) Enter judgment against defendant and in favor of plaintiff for each violation of the Federal Trade Commission Act and of the Textile Act alleged in this complaint;

(2) Award plaintiff monetary civil penalties pursuant to 15 U.S.C. § 45(m)(1)(B);

(3) Enjoin defendant from violating the Textile Act and the rules and regulations promulgated thereunder;

(4) Order defendant to pay the costs of this action; and

(5) Award plaintiff such additional relief as the Court may deem just and proper.

DATED: _____

FOR THE UNITED STATES OF AMERICA

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By: _____

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