



U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, D.C. 20207

Record of Commission Action
July 13, 1978

1111 18th St., N.W.
Washington, D.C.

Presiding: Chairman King

Present : Commissioner Sloan
Commissioner Franklin

ITEM

Settlement of litigation concerning TRIS.

DECISION

The Commission approves the attached settlement agreement.

APPROVE: Chairman King

Susan B. King July 13, 1978
(Signature) (Date)

Commissioner Sloan

Deith B. Sloan July 13, 1978
(Signature) (Date)

Commissioner Franklin

Barbara H. Franklin 7-13-78
(Signature) (Date)

Commissioner Pittle

R. David Pittle 7-13-78
(Signature) (Date)
(Voting by proxy)

Submitted by: Office of the General Counsel

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Springs Mills, Inc.,)
)
Plaintiff)
)
v.) Civil Action No. 77-891
)
Consumer Product Safety)
Commission, et al.,)
)
Defendants)
)

ORDER OF FINAL JUDGMENT

The plaintiff Springs Mills, Inc. and the Government, to settle the pending litigation and to conserve their resources, waive the entry of findings of fact and conclusions of law under Rule 52 and agree to the entry of a Final Judgment in the form herein provided disposing of all issues in controversy between these parties:

It is, therefore, ORDERED, ADJUDGED, and DECREED that:

1. The United States of America is joined, with its consent, as defendant in the above styled case.
2. Defendants United States of America and the Consumer Product Safety Commission are hereby permanently restrained and enjoined from applying or enforcing, or attempting to apply or enforce, the Federal Hazardous Substances Act, the Consumer Product Safety Act, or any other statutes under their jurisdiction (or any rules, regulations or interpretations promulgated thereunder), based on any past acts or transactions of Springs Mills in manufacturing, processing, offering for sale, selling, transporting, or refusing to repurchase any fabrics, yarns, fibers, or garments manufactured or processed by Springs Mills containing TRIS, occurring prior to the entry of this Final Judgment: a) against plaintiff Springs Mills, Inc. and its subsidiaries (and their respective officers, directors, agents, servants

and employees) hereinafter collectively referred to as "Springs Mills", b) against fibers, yarns, fabrics, or garments treated with or containing TRIS that have been manufactured or processed by Springs Mills, c) against any direct or indirect purchasers of such fabrics, yarns, fibers, or garments or other persons in the chain of distribution of such fabrics, yarns, fibers or garments from Springs Mills. Nothing herein shall prohibit the Consumer Product Safety Commission from filing an action seeking injunctive relief to restrain any person from selling or distributing directly to consumers fabrics, yarns, fibers, or garments containing TRIS for use by children.

3. The United States of America and the Consumer Product Safety Commission are hereby permanently restrained and enjoined from instituting or causing to be instituted against Springs Mills, or any direct or indirect purchaser of any fabrics, yarns, fibers, or garments manufactured or processed by Springs Mills, any action based in whole or in part on any future refusal of Springs Mills or of any direct or indirect purchaser or other customer of Springs Mills, to repurchase any fabrics, yarns, fibers, or garments containing TRIS manufactured, processed, transported, or sold by Springs Mills prior to the date of this Final Judgment.

4. The Consumer Product Safety Commission will, simultaneously with the entry of this Final Judgment, move to dismiss the appeals now pending in the United States Court of Appeals for the Fourth Circuit from the Final Judgment entered herein on August 16, 1977, and filed August 17, 1977 under Count One of Springs Mills' Complaint.

5. Springs Mills, having voluntarily discontinued the use of TRIS as a chemical flame retardant for fabrics intended for use by children in mid 1976, is hereby permanently restrained and enjoined from resuming the use of TRIS in the manufacture of any fibers, yarns, fabrics, or garments intended for use by children and from selling any fabrics, yarns, fibers, or garments containing TRIS for use in children's sleepwear.

6. Springs Mills and the Consumer Product Safety Commission agree to issue a single joint press release in the form attached hereto as Exhibit A and to refrain from making any other written releases, or from making any announcements or public statements regarding the settlement and disposal of this litigation which differ in substance from this Final Judgment and attachment hereto; provided that nothing herein shall prohibit the Consumer Product Safety Commission from responding to inquiries from any congressional offices or committees.

7. Defendants agree to pay all taxable court costs in the pending litigation; Springs Mills agrees, however, that it will not apply for any award of costs.

This _____ day of July 1978.

UNITED STATES DISTRICT JUDGE

Entry of the within and foregoing Final Judgment is hereby stipulated, requested and consented to by the parties below, by and through their duly authorized counsel of record this _____ day of July 1978.

WESLEY M. WALKER

EMMET J. BONDURANT

J. SPRATT WHITE

Attorneys for Springs Mills, Inc.
Plaintiff

* * *

THOMAS E. LYDON, JR.
United States Attorney

JAMES D. McCOY, III
Assistant United States Attorney

MARGARET A. COTTER
U.S. Department of Justice

Attorneys for Defendants United
States, Consumer Product Safety
Commission, and individual defendants

EXHIBIT A

PRESS RELEASE

The Consumer Product Safety Commission and Springs Mills, Inc. today announced agreement on the terms of a settlement of Springs' suit against the Commission's ban of the flame-retardant chemical TRIS.

Appeals from a judgment and injunction entered by Judge Robert L. Chapman, ~~Jr.~~ of the United States District Court for the District of South Carolina on Count One of Springs Mills' complaint were pending in the United States Court of Appeals for the Fourth Circuit.

The authority of the Consumer Product Safety Commission to ban the exportation of TRIS-treated products was not an issue in this case and nothing contained in the Final Judgment approves or disapproves the exportation of TRIS-treated products intended for use by children.

The text of the parties' settlement, as approved by the United States District Court, is attached.

The Commission plans to seek dismissal of its suit against Burlington Industries, Collins & Aikman Corporation, Cone Mills Corporation, Dan River, Inc., J.P. Stevens Co., Inc., M. Lowenstein & Sons, Inc., and Werthan Textile Mills, Inc.