

Complaint

IN THE MATTER OF

BRUNSWICK WORSTED MILLS, INC., AND GEORGE O.
LECKIE AND HENRY C. HASKELL, TRADING AS
LECKIE & HASKELL .COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 3880. Complaint, Aug. 26, 1939—Decision, Oct. 31, 1939*

Where a corporation engaged in manufacture of worsteds and other woolen fabrics, and in sale thereof to manufacturers of men's suits and other articles of merchandise, and two individuals, engaged as exclusive agents, practically, in sale of fabrics made by said corporation, and in substantial competition, as aforesaid, with others engaged in selling and distributing various woolen fabrics in commerce among the various States—

Offered and sold said worsted and other products or fabrics made by corporation in question from mixture of fibers consisting of 80 percent wool and of 20 percent rayon, indistinguishable, or practically indistinguishable, as interwoven with wool as aforesaid, by manufacturers and consuming public from materials and garments made entirely from wool, without disclosing, by tags, labels, invoices, advertising, or in any other sales promotional descriptions or representations, or in any other way, that products or fabrics in question contained rayon in such or in any other substantial amount;

With capacity and tendency to mislead manufacturers of garments and other articles of merchandise and purchasers thereof into accepting same as being composed entirely of wool, and as understood from word "worsted," unqualified, by manufacturing and consuming public, as being such all wool fabrics having particular weave or construction and, in case of garments or other articles made therefrom, as being entirely of wool, and with result that number of manufacturers, dealers, and members of purchasing public bought substantial volume of their products, and trade was diverted unfairly to them from competitors also engaged in sale and distribution of woolen fabrics in commerce and who fully disclose constituent fibers of which their fabrics are composed:

Held, That such acts and practices, and each of them, under the circumstances set forth, were all to the prejudice and injury of the public and competitors, and constituted unfair methods of competition in commerce and unfair and deceptive acts and practices therein.

Mr. George W. Williams for the Commission.

Mr. Roger B. Coulter of Sawyer, Hardy, Stone & Morrison, of Boston, Mass., for respondents.

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 said Brunswick

Worsted Mills, Inc., a corporation, and George O. Leckie and Henry C. Haskell, individually and as copartners, trading as Leckie & Haskell, 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 Brunswick Worsted Mills, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Rhode Island, with its office and principal place of business located in the town of Moosup, State of Connecticut.

Respondents George O. Leckie and Henry C. Haskell are copartners doing business under the trade or firm name and style of Leckie & Haskell, with their principal place of business at 257 Fourth Avenue, city of New York, State of New York.

PAR. 2. Respondent Brunswick Worsted Mills, Inc., is now, and for many years last past has been, engaged in the manufacture and sale of worsteds and other woolen fabrics which are sold to manufacturers of men's suits and other articles of merchandise. The respondents George O. Leckie and Henry C. Haskell, trading as Leckie & Haskell, are the exclusive agents of the corporate respondent in the sale of the fabrics manufactured by it. Respondents cause said fabrics, when sold by them, to be shipped from the mill of the corporate respondent in the State of Connecticut to the purchasers thereof located in various other States of the United States and in the District of Columbia.

Respondents maintain, and at all times mentioned herein have maintained, a course of trade in said fabrics in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. Respondents are engaged in substantial competition in commerce among and between the various States of the United States and in the District of Columbia with other corporations, individuals, firms, and partnerships engaged in selling and distributing various woolen fabrics in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 4. During the many years that they have conducted business, the respondents have established a reputation among the trade as dealers in woolen fabrics exclusively and are still so considered. Due to the long continued dealing in exclusively woolen fabrics, it was the practice of the respondents in the offering for sale and

selling said fabrics to do so by number and sample without such fabrics being labeled or their fiber content being otherwise identified or disclosed.

Recently, however, the respondents have sold and distributed a fabric composed in part of wool and in part of rayon in commerce among and between the several States of the United States. In the offering for sale and sale of this product the respondents have not disclosed the material content of said fabric, but instead have offered said fabric for sale in the same manner as was customary in connection with their exclusively woolen fabrics.

By reason of respondents' reputation as dealers in woolen fabrics exclusively and their failure to disclose that said fabrics were a mixture of wool and rayon either by designation or description in invoicing, labeling or advertising said products, the purchasers thereof, relying on such reputation, were led to believe that the products so offered for sale and sold by the respondents consisted exclusively of wool.

PAR. 5. Over a period of many years fabrics made of all wool or woolen materials have established a reputation of possessing superior cold-resisting and wearing qualities over fabrics made from rayon or other fibers. On account of such reputation, purchasers and prospective purchasers of suits and other wearing apparel have a decided preference for wool fabrics over fabrics composed in part of rayon or other fibers.

The word "worsted" standing alone and unqualified is understood by the manufacturing and consuming public to be a fabric composed entirely of wool and having a particular weave or construction, and garments and other articles of merchandise made therefrom are understood by them to be made entirely of wool.

The word "rayon" is the name of a chemical fiber, and when rayon is interwoven with wool, as in said material and garments made therefrom as above set forth, is practically indistinguishable by the manufacturing and consuming public from material and garments made entirely of wool. By reason of this fact, when fabrics and garments and other articles of merchandise are composed and woven as above described and are not designated or described as being in part made of rayon, they have the capacity and tendency to, and do mislead and deceive the manufacturers of garments and other articles of merchandise and the purchasers thereof into accepting the same as being composed entirely of wool.

PAR. 6. The use by the respondents of the aforesaid practice of failing to disclose the fact that certain of their fabrics were, and are, composed in part of rayon has had, and now has, the tendency and

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capacity to mislead and deceive manufacturers, dealers, and a substantial portion of the purchasing public into the erroneous and mistaken belief that said products are composed wholly of wool, and enables manufacturers of suits, garments, and other articles of merchandise to pass said products off to the purchasing and consuming public as being genuine worsted or composed entirely of wool. On account of this erroneous and mistaken belief a number of manufacturers, dealers, and members of the purchasing public have purchased a substantial volume of respondents' products, with the result that trade has been diverted unfairly to the respondents from their competitors who are also engaged in the sale and distribution of woolen fabrics in commerce among and between the various States of the United States and who do not falsely represent or fail to disclose the constituent fibers of which their fabrics are composed. As a consequence thereof, injury has been, and is now being, done by respondents to competition in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 7. The aforesaid acts and practices of the respondents as herein alleged are all to the prejudice and injury of the public and of respondents' competitors and 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.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on the 26th day of August 1939, issued and served its complaint in this proceeding upon respondents Brunswick Worsted Mills, Inc., a corporation, and George O. Leckie and Henry C. Haskell, individually, and as copartners trading as Leckie & Haskell, charging them with the use of unfair methods of competition in commerce in violation of the provisions of said Act. On the 15th day of September 1939, the respondents filed their answer in this proceeding. Thereafter, a stipulation was entered into whereby it was stipulated and agreed that a statement of fact signed and executed by the respondents' counsel, Roger B. Coulter, and W. T. Kelley, chief counsel for the Federal Trade Commission, subject to the approval of the Commission, may be taken as to the facts in this proceeding and in lieu of testimony in support of the charges stated in the complaint, or in opposition thereto, and that the said Commission may proceed upon the said statement of facts

to make its report, stating its findings as to the facts and its conclusion based thereon and enter its order disposing of the proceeding without the presentation of argument or the filing of briefs. Thereafter, this proceeding regularly came on for final hearing before the Commission on said complaint, answer, and stipulation, said stipulation having been approved, accepted, and filed, and the Commission having duly considered the same and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Brunswick Worsted Mills, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Rhode Island, with its office and principal place of business located in the town of Moosup, State of Connecticut.

Respondents, George O. Leckie and Henry C. Haskell, are co-partners doing business under the trade or firm name and style of Leckie & Haskell, with their principal place of business at 257 Fourth Avenue, city of New York, State of New York.

PAR. 2. Respondent, Brunswick Worsted Mills, Inc., for a number of years last past has been engaged in the manufacture and sale of worsteds and other woolen fabrics which are sold to manufacturers of men's suits and other articles of merchandise. The respondents George O. Leckie and Henry C. Haskell, trading as Leckie & Haskell, as aforesaid, are practically the exclusive agents of said respondent in the sale of the fabrics manufactured by it. Respondents cause said fabrics, when sold, by them, to be shipped from the mill of the corporate respondent in the State of Connecticut to the purchasers thereof located in various other States of the United States.

Respondents maintain, and at all times mentioned herein have maintained, a course of trade in said fabrics in commerce among and between the various States of the United States.

PAR. 3. Respondents are engaged in substantial competition in commerce among and between the various States of the United States with other corporations, individuals, firms, and partnerships engaged in selling and distributing various woolen fabrics in commerce among and between the various States of the United States.

PAR. 4. In the course and conduct of their business, as described in paragraph 2 hereof, said respondents, in their various capacities, referred to above, for some time prior to June 1938, offered for sale,

sold, and distributed in commerce, as commerce is defined by the Federal Trade Commission Act, certain worsted and other products or fabrics manufactured by the said corporation from a mixture of fibers consisting of 80 percent wool and 20 percent rayon, without disclosing by tags, labels, invoices, advertising, or in any sales promotional descriptions or representations thereof, or in any other way, the fact that such products or fabrics contained rayon in such or any other substantial amount. Rayon, when so mixed with wool, is indistinguishable by manufacturers and the public from a wholly wool product or fabric.

PAR. 5. Over a period of years fabrics made of all wool or worsted materials have established a reputation of possessing superior cold resisting and wearing qualities over fabrics made from rayon or a combination of rayon and other fibers. On account of such reputation, purchasers and prospective purchasers of suits and other wearing apparel have a preference for wool fabrics over fabrics composed in part of rayon or rayon and wool or other fibers.

The word "worsted" standing alone and unqualified is understood by the manufacturing and consuming public to be a fabric composed entirely of wool and having a particular weave or construction, and garments or other articles of merchandise made therefrom are understood by them to be made entirely of wool.

The word "rayon" is the name of a chemical fiber, and when rayon is interwoven with wool, as in said materials and garments made therefrom, as above set forth, it is practically indistinguishable by the manufacturers and consuming public from materials and garments made entirely from wool, as aforesaid. By reason of this fact, when fabrics, garments, and other articles of merchandise are composed and woven as above described and are not designated as being made in part of rayon, they have the capacity and tendency to mislead the manufacturers of garments and other articles of merchandise and the purchasers thereof into accepting the same as being composed entirely of wool. On account of this erroneous and mistaken belief a number of manufacturers, dealers, and members of the purchasing public have purchased a substantial volume of respondents' products with the result that trade has been diverted unfairly to the respondents from their competitors, who were also engaged in the sale and distribution of woollen fabrics in commerce among and between the various States of the United States, and who fully disclose the constituent fibers of which their fabrics are composed.

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Order

CONCLUSION

The aforesaid acts and practices of respondents, and each of them, as herein found, are all to the prejudice and injury of the public and of respondents' competitors and 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.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondents, and a stipulation as to the facts entered into between the respondents herein and W. T. Kelley, chief counsel for the Commission, which provides, among other things, that without further evidence or intervening procedure, the Commission may issue and serve upon the respondents herein findings as to the facts and conclusion based thereon and an order disposing of the proceeding, and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Brunswick Worsted Mills, Inc., a corporation, its officers, representatives, agents, and employees, directly or through any corporate or other device, and the respondents George O. Leckie and Henry C. Haskell, individually, and as copartners trading as Leckie & Haskell, in connection with the offering for sale, sale, and distribution of fabrics in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from offering for sale, selling, or distributing any fabric or product composed in part of wool and in part of rayon, or any other fiber without making full and nondeceptive disclosure of the fiber content thereof, by stating the true names of the fibers present, in the order of predominance by weight, and by stating the percentages of such fibers as are present therein; provided, however, that it shall not be necessary to state the percentage of rayon or fiber other than wool, if the rayon or fiber other than wool be used exclusively for decorative purposes and is plainly visible as a decoration, and the same being not more than 5 percent of the whole fabric or product by weight.

It is further ordered, That respondents shall, within 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

LAING, HARRAR & CHAMBERLIN, INC., A. J. SANBORN
SONS, INC., HARRY FAIN AND ALFRED PICERNOCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 3725. Complaint, Feb. 28, 1939—Decision, Nov. 2, 1939*

Where a corporation engaged in sale and distribution of shoe findings, leather, and supplies for shoe manufacturers, shoe stores, and shoe repair shops, to wholesale dealers, including corporation and two individuals engaged, in competition with one another and others prior to acts below set forth, in distribution and sale at wholesale of such products in trade area in and around the city of Providence—

- (a) Entered into an understanding and agreement whereby said distributor corporation undertook not to sell and distribute its products to third individual, likewise engaged as wholesaler of such articles in said city, lacking consent of corporate and individual wholesalers first referred to; and

Where said corporate and individual wholesalers first referred to—

- (b) Undertook, as part of understanding and agreement aforesaid, not to purchase any of the articles sold and distributed by corporate distributor first referred to in event of its violating its agreement and selling to said third individual contrary to the wishes of said corporate wholesaler and other two wholesaler individuals;

With result that said agreeing corporation discontinued sale of its articles to individual in question, competitor of said corporate wholesaler and wholesaler individuals, and purchaser, prior thereto, from such discontinuing corporation of substantial quantities of its articles:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice of competitors and the public, and had a dangerous tendency to and did hinder and prevent competition in sale of shoe findings, leather, and supplies for shoe stores and shoe repair shops, and unreasonably restrained commerce therein and constituted unfair methods of competition.

Mr. Daniel J. Murphy for the Commission.

Mr. Walter W. Hess, of Philadelphia, Pa., for Laing, Harrar & Chamberlin, Inc.

Remington, Thomas & Levy, of Providence, R. I., for A. J. Sanborn Sons, Inc., Harry Fain and Alfred Picerno.

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 Laing, Harrar &