

Complaint

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IN THE MATTER OF

RHODE ISLAND PLUSH MILLS, INC.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914, AND OF AN ACT OF CONGRESS APPROVED OCT. 14, 1940

Docket 4881. Complaint, Dec. 30, 1942—Decision, July 13, 1943

Where a corporation, engaged in the manufacture and interstate sale and distribution of textile fabrics of woolen and cotton, woolen and rayon, or cotton and rayon, which, designed for use in the manufacture of women's coats, were so constructed as to simulate the color, pattern, and texture of the peltries of the Karakul breed of sheep or lambs, or fabrics made from the highly prized fleece thereof—

(a) Represented that its fabrics and coats or garments made therefrom were made from such peltries or fleece, through supplying to manufacturers and retailers for use thereon, or paying for, labels bearing names such as "Bakahara-Lam," "Allapo-Curl," "Arabakurl," "Bokahara-Curl," and "Mara-Kurl," associated in sound and appearance with said breed's countries;

With tendency and capacity to mislead and deceive the purchasing public into the belief that said fabrics or garments were in fact made from Karakul peltries or fleece, markedly preferred by a substantial part of such public over garments made of ordinary woolen or mixed fabrics; and

Where said corporation, engaged in sale and distribution of wool products under the Wool Products Labeling Act in that aforesaid fabrics were composed in part of wool, reprocessed wool, or reused wool as there defined, and of other fibers also—

(b) Sold the same misbranded in violation thereof in that they did not have on or affixed thereto a stamp, tag, label, or other means of identification showing the percentages of the total fiber weight with respect to wool, reprocessed wool, reused wool, nonwool fibers, and aggregate thereof, addition of nonfibrous loading, and proper identification of the manufacturer or seller:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public, and constituted unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939.

Mr. B. G. Wilson for the Commission.

Edwards & Angell, of Providence, R. I., for respondent.

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 Rhode Island Plush Mills, Inc., a corporation, hereinafter referred to as respondent, has

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violated the provisions of said act and the provisions of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder, 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, Rhode Island Plush 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 offices and principal place of business at 1112 River Street, Woonsocket, R. I.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the manufacture, sale, and distribution of certain textile fabrics which are designed for use in the manufacture of women's coats. Said fabrics resemble or simulate in appearance the peltries of the Karakul breed of sheep or lambs or fabrics made from the fleece of such sheep or lambs.

Respondent causes and has caused said products, when sold by it, to be transported from its place of business in the State of Rhode Island to various purchasers thereof at their respective points of location in various States of the United States other than the State of Rhode Island and in the District of Columbia.

Respondent maintains and at all times mentioned herein has maintained a course of trade in its said fabrics in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of its business and for the purpose of inducing the purchase of its fabrics, respondent supplies manufacturers and retail dealers with various labels to be attached to coats and other garments manufactured from its said fabrics.

Among the trade names used by the respondent on said labels are the following: "Bokahara-Lam," "Allapo-Curl," and "Arabakurl." Other labels attached to coats and other garments manufactured from its fabrics and paid for by the respondent bear the names, "Bokahara-Curl," "Mara-Kurl," "Uralaine," "Artic-Kurl," and "Kurlymo." All of said labels are used on fabrics which are manufactured by respondent so as to resemble and simulate in appearance the color, pattern, and texture of the peltries of the Karakul breed of sheep or lambs or fabrics made from the fleece of such sheep or lambs.

The foregoing trade names have the sound and appearance of various names which are associated in the minds of the purchasing public with countries where the Karakul breed of sheep or lamb is found.

PAR. 4. The aforesaid textile fabrics, as manufactured and sold by respondent, are so constructed as to have the appearance of the highly

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prized fleece of the young of the Karakul breed of sheep and from their appearance said fabrics convey the impression and induce the belief among prospective purchasers that said fabrics and the garments made therefrom are in fact made from the peltries of the Karakul breed of sheep or lamb or from the fleece from such sheep or lamb.

When textile fabrics simulating or resembling the peltries of animals bear labels which suggest such animals or the country of their origin are unaccompanied by words disclosing that such products are in fact made of fabrics rather than peltries, such practice has the tendency and capacity to confuse, mislead, and deceive the purchasing public into the belief that such fabrics and the garments made therefrom are in fact made from the peltries or from the fleece of such animals.

Through the use of the aforesaid labels and through the use of other words of similar meaning not herein set out, the respondent represents and has represented that its fabrics and the garments made therefrom are made from the peltries of the Karakul breed of sheep and lambs or from the fleece taken from such animals.

PAR. 5. The foregoing labels are false, misleading, and deceptive. In truth and in fact none of respondent's fabrics or the garments made therefrom are composed of the peltries of the Karakul breed of sheep or lambs or of fleece taken from such animals. All of said products are fabrics composed of woolen fibers and cotton fibers, or woolen fibers and rayon fibers, or cotton fibers and rayon fibers.

PAR. 6. There is a marked preference on the part of a substantial portion of the purchasing public for coats and other garments made from the peltries of the Karakul breed of sheep or lamb and from the fleece of such animals over garments made from fabrics composed of ordinary woolen fibers or composed of a mixture of ordinary wool and other fibers.

PAR. 7. Through the use of the acts and practices hereinabove alleged, the respondent places in the hands of the manufacturers, jobbers, and retail dealers, a means and instrumentality whereby such manufacturers, jobbers, and retail dealers are enabled to mislead and deceive members of the purchasing public.

PAR. 8. The said fabrics sold and distributed by the respondent since July 15, 1941, as aforesaid, are wool products within the intent and meaning of the Wool Products Labeling Act of 1939, in that such fabrics are composed in part of wool, reprocessed wool, and reused wool, as those terms are defined in said act. Said wool products contain fibers other than wool, reprocessed wool, or reused wool.

Said wool products, when sold and distributed by the respondent in said commerce, as aforesaid, were misbranded in violation of the

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Wool Products Labeling Act of 1939, in that said wool products did not have on or affixed thereto a stamp, tag, label, or any other means of identification, or a substitute in lieu thereof, as provided by said act, showing (a) the percentage of the total fiber weight of the wool product, exclusive of ornamentation not exceeding 5 percent of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight of such fiber was 5 percent or more, and (5) the aggregate of all other fibers; (b) the maximum percentage of the total weight of the wool product of nonfibrous loading, filling, or adulterating matter; (c) the name of the manufacturer of the wool product, or a registered number in lieu thereof as provided for in the rules and regulations promulgated under such act, or the name of one or more persons subject to section 3 of said act with respect to such wool product; (d) the percentages in words and figures plainly legible, by weight of the wool contents of said wool product where said wool product contained a fiber other than wool.

PAR. 9. The aforesaid acts, practices, and methods of respondent, as herein alleged, are all to the prejudice and injury of the public and constitute 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 30th day of December 1942 issued and subsequently served its complaint in this proceeding upon respondent, Rhode Island Plush Mills, Inc., a corporation, charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act, and the provisions of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder. After the issuance of said complaint and the filing of respondent's answer thereto, a stipulation was entered into whereby it was stipulated and agreed that a statement of facts signed and executed by the treasurer for respondent corporation and Richard P. Whiteley, assistant chief counsel for the Federal Trade Commission, subject to the approval of the Commission, may be taken as 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 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. In said stipulation respondent expressly waived the filing of a report upon the evidence by a trial examiner. Thereafter, this proceeding

regularly came on for final hearing before the Commission upon 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 this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Rhode Island Plush 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 offices and principal place of business at 1112 River Street, Woonsocket, R. I.

PAR. 2. Respondent is now and for some time last past has been engaged in the manufacture, sale, and distribution of certain textile fabrics which are designed for use in the manufacture of women's coats. Said fabrics resemble or simulate in appearance the peltries of the Karakul breed of sheep or lambs or fabrics made from the fleece of such sheep or lambs.

Respondent causes and has caused said products, when sold by it, to be transported from its place of business in the State of Rhode Island to various purchasers thereof at their respective points of location in various States of the United States other than the State of Rhode Island and in the District of Columbia.

Respondent maintains and at all times mentioned herein has maintained a course of trade in its said fabrics in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of its business and for the purpose of inducing the purchase of its fabrics, respondent supplies manufacturers and retail dealers with various labels to be attached to coats and other garments manufactured from its said fabrics.

Among the trade names used by the respondent on said labels are the following: "Bokahara-Lam," "Allapo-Curl," and "Arabakurl." Other labels attached to coats and other garments manufactured from its fabrics and paid for by the respondent bear the names, "Bokahara-Curl," "Mara-Kurl." All of said labels are used on fabrics which are manufactured by respondent so as to resemble and simulate in appearance the color, pattern, and texture of the peltries of the Karakul breed of sheep or lambs or fabrics made from the fleece of such sheep or lambs.

The foregoing trade names have the sound and appearance of various names which are associated in the minds of the purchasing

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public with countries where the Karakul breed of sheep or lamb is found.

PAR. 4. The aforesaid textile fabrics, as manufactured and sold by respondent, are so constructed as to have the appearance of the highly prized fleece of the young of the Karakul breed of sheep and from their appearance said fabrics convey the impression and induce the belief among prospective purchasers that said fabrics and the garments made therefrom are in fact made from the peltries of the Karakul breed of sheep or lamb or from the fleece from such sheep or lamb.

When textile fabrics simulating or resembling the peltries of animals bear labels which suggest such animals or the country of their origin are unaccompanied by words disclosing that such products are in fact made of fabrics rather than peltries, such practice has the tendency and capacity to confuse, mislead, and deceive the purchasing public into the belief that such fabrics and the garments made therefrom are in fact made from the peltries or from the fleece of such animals.

Through the use of the aforesaid labels and through the use of other words of similar meaning not herein set out, the respondent represents and has represented that its fabrics and the garments made therefrom are made from the peltries of the Karakul breed of sheep and lambs or from the fleece taken from such animals.

PAR. 5. The foregoing labels are false, misleading, and deceptive. In truth and in fact none of respondent's fabrics or the garments made therefrom are composed of the peltries of the Karakul breed of sheep or lambs or of fleece taken from such animals. All of said products are fabrics composed of woolen fibers and cotton fibers, or woolen fibers and rayon fibers, or cotton fibers and rayon fibers.

PAR. 6. There is a marked preference on the part of a substantial portion of the purchasing public for coats and other garments made from the peltries of the Karakul breed of sheep or lamb and from the fleece of such animals over garments made from fabrics composed of ordinary woolen fibers or composed of a mixture of ordinary wool and other fibers.

PAR. 7. Through the use of the acts and practices hereinabove described, the respondent places in the hands of the manufacturers, jobbers, and retail dealers, a means and instrumentality whereby such manufacturers, jobbers, and retail dealers are enabled to mislead and deceive members of the purchasing public.

PAR. 8. The said fabrics sold and distributed by the respondent since July 15, 1941, as aforesaid, are wool products within the intent and meaning of the Wool Products Labeling Act of 1939, in that such

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fabrics are composed in part of wool, reprocessed wool, and reused wool, as those terms are defined in said act. Said wool products contain fibers other than wool, reprocessed wool, or reused wool.

Said wool products, when sold and distributed by the respondent in said commerce, as aforesaid, were misbranded in violation of the Wool Products Labeling Act of 1939, in that said wool products did not have on or affixed thereto a stamp, tag, label, or any other means of identification, or a substitute in lieu thereof, as provided by said act, showing (a) the percentage of the total fiber weight of the wool product, exclusive of ornamentation not exceeding 5 percent of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight of such fiber was 5 percent or more, and (5) the aggregate of all other fibers; (b) the maximum percentage of the total weight of the wool product of non-fibrous loading, filling, or adulterating matter; (c) the name of the manufacturer of the wool product, or a registered number in lieu thereof as provided for in the rules and regulations promulgated under such act, or the name of one or more persons subject to section 3 of said act with respect to such wool product; (d) the percentages, in words and figures plainly legible, by weight of the wool contents of said wool product where said wool product contained a fiber other than wool.

PAR. 9. The record indicates that since September 1, 1941, respondent has affixed labels, tags, or other means of identification to its products which are designed for use in the manufacture of women's coats, in compliance with the provisions of the Wool Products Labeling Act of 1939, and the rules and regulations promulgated thereunder.

CONCLUSION

The aforesaid acts and practices of respondent as herein found are all to the prejudice of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939.

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 respondent, and a stipulation as to the facts entered into by the respondent herein and Richard P. Whiteley, assistant chief counsel for the Commission, which provides, among other things, that without further evidence or other intervening procedure the Commission may issue

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and serve upon the respondent 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 respondent has violated the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939.

It is ordered, That the respondent, Rhode Island Plush Mills, Inc., a corporation, and its officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of textile fabrics in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the words "Bokahara Lam," "Allapo-Curl," "Arabakurl," "Bokahara-Curl," "Mara-Kurl," or any similar term, to designate fabrics which resemble or simulate in appearance the color, pattern, or texture of peltries of the Karakul breed of sheep or lambs, or fabrics made from the fleece of such sheep or lambs.

2. Representing or implying in any manner that textile fabrics are made from the fleece of the Karakul breed of sheep or lamb, when such is not the fact.

It is further ordered, That the respondent, Rhode Island Plush Mills, Inc., a corporation, and its officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction of textile fabrics into commerce, or the sale, transportation, or distribution of textile fabrics in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding fabrics which contain, purport to contain, or in any way are represented as containing, wool, reprocessed wool, or reused wool, as those terms are defined in the Wool Products Labeling Act of 1939, by failing to place on or affix to said fabrics a stamp, tag, label, or other means of identification showing:

- (a) The percentage of the total fiber weight of the fabric, exclusive of ornamentation not exceeding 5 percent of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight of such fiber is 5 percent or more, and (5) the aggregate of all other fibers.

- (b) The maximum percentage of the total weight of the said fabric of nonfibrous loading, filling, or adulterating matter.

- (c) The name of the manufacturer of the said fabric; or the manufacturer's registered identification number and the name of a subsequent seller of the fabric; or the name of one or more persons subject

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to section 3 of said Wool Products Labeling Act of 1939 with respect to such fabric.

(d) The percentages, in words and figures plainly legible, by weight of the wool contents where said fabric contains a fiber other than wool.

Subsections (a), (b), (c), and (d) of this order are subject to the provisions of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder, and are not to be construed as limiting applicable provisions of said act or said rules and regulations.

It is further ordered, That the respondent shall, within 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.

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IN THE MATTER OF

JOHN H. FLING AND WILLIAM B. MAHANEY, TRADING
AS CENTRAL SALES COMPANY

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 4948. Complaint, Apr. 19, 1943—Decision, July 13, 1943

Where two individuals, engaged in the competitive interstate sale and distribution of smokers' articles, sporting goods, novelties, and other merchandise so assorted, packed, and assembled as to involve use of a lottery scheme and game of chance in sale thereof to the purchasing public; a typical assortment including two rifles, a cigarette lighter, camera, lantern, fountain pen and pencil set, shotgun, duck call, and a flashlight, together with a punchboard, for sale under a plan—as stated thereon—by which persons punching by chance certain specified numbers, and for the 5 cents charged, were awarded one of said articles, others receiving nothing—

Sold such assortments to purchasers and consignees, by whom they were exposed and sold to the public in accordance with aforesaid sales plan involving sale of chances to procure merchandise at much less than the normal retail price thereof; and thereby supplied to and placed in the hands of said purchasers and consignees means of conducting lotteries on the sale of their merchandise, contrary to an established public policy of the United States Government;

With the result that many persons were attracted by such sales plan and the element of chance involved therein, and were thereby induced to buy and sell said merchandise in preference to that of competitors who did not use such methods, and with tendency and capacity unfairly to divert trade from competitors aforesaid:

Held, That such acts and practices, 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 acts and practices therein.

Mr. J. W. Brookfield, Jr. for the Commission.

Ryland, Stinson, Mag & Thomson, of Kansas City, Mo., 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 John H. Fling and William B. Mahaney, individuals, trading as Central Sales Co., 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. Respondents, John H. Fling and William B. Mahaney, are individuals, doing business under the firm name and style