

Complaint

IN THE MATTER OF

GABRIEL H. GLADSTONE AND NEWTON A. GLADSTONE,
DOING BUSINESS AS GLADSTONE BROTHERS AND AS
AARON LEONARD COMPANY

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 4969. Complaint, May 27, 1943—Decision, Dec. 8, 1943

Where two individuals, engaged in designing and cutting fabrics for men's and boys' clothing to be made up for them by others, and in the interstate sale and distribution of said clothing—

- (a) Represented that certain clothing was made entirely of vicuna wool fabric, through distributing it labeled "Valcuna," and bearing a likeness to a vicuna; notwithstanding the fact that said clothing was made of fabric which contained a substantial amount of other fiber; and also
- (b) Sold and distributed men's and boys' suits labeled "London Park Clothes—\$40.00—All Wool," when in fact such suits contained substantial amount of fiber other than wool;

With effect of deceiving a substantial portion of the purchasing public into the mistaken belief that such representations were true, and of thereby inducing it to purchase the said clothing; and

Where said individuals engaged in sale and distribution, as aforesaid, of suits and other wearing apparel, including many which were wool products within the intent and meaning of the Wool Products Labeling Act of 1939—

- (c) Sold and distributed such clothing misbranded in violation of aforesaid act and the rules and regulations promulgated thereunder, in that it did not have on or affixed thereto a stamp, tag, label, or other means of identification showing the percentage of the total fiber weight of wool, reprocessed wool; reused wool, nonwool fiber and aggregate thereof, including filler or adulterating matter, 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. DeWitt T. Puckett for the Commission.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, and by virtue of the authority vested in it by said acts, the Federal Trade Commission, having reason to believe that Gabriel H. Gladstone and Newton A.

Complaint

37 F. T. C.

Gladstone, trading and doing business as Gladstone Bros., and as Aaron Leonard Co., hereinafter referred to as respondents, have violated the provisions of the said acts and the rules and regulations promulgated under the Wool Products Labeling Act of 1939, 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, Gabriel H. Gladstone and Newton A. Gladstone, are copartners, trading and doing business as Gladstone Bros. and as Aaron Leonard Co. Their principal office and place of business are at 110 Fifth Avenue, New York, N. Y.

PAR. 2. Respondents are now, and during all times mentioned herein, have been engaged in designing and cutting fabrics which are manufactured into clothing for men and boys. The remaining manufacturing operations necessary to the completion of the clothing are performed for respondents by others.

Respondents cause and have caused said clothing when sold by them to be transported from their place of business in the State of New York to various purchasers thereof at their respective points of location in various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their aforesaid business respondents distributed clothing which was labeled "Vicuna," and which labels bore a likeness to a vicuna. Such labels constituted a representation that the clothing was made entirely of vicuna wool fabric, when in truth and in fact said clothing was not made entirely of vicuna wool fabric but was made of fabric which contained a substantial amount of fiber other than vicuna wool.

PAR. 4. There is a demand on the part of a substantial portion of the purchasing public for clothing manufactured of vicuna wool.

PAR. 5. Respondents also sold and distributed men's and boys' suits in commerce as aforesaid which were labeled "London Park Clothes—\$40.00—All Wool." In truth and in fact said suits were not made entirely of wool fabric but were made of fabric which contained a substantial amount of fiber other than wool.

PAR. 6. The use by the respondents of the foregoing false, deceptive and misleading representations with respect to their clothing, disseminated as aforesaid, has had and now has the capacity and tendency to and does mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements, representations and advertisements are true, and has induced a portion of the purchasing public because of such erroneous and mistaken belief to purchase the respondents' said clothing.

PAR. 7. Among the suits and other articles of wearing apparel sold and distributed by respondents as aforesaid since July 15, 1941, are many which are wool products within the intent and meaning of the Wool Products Labeling Act of 1939, in that said suits and other articles of wearing apparel were composed in whole or in part of wool, reprocessed wool or reused wool, as those terms are defined in said act. Said wool products are subject to the labeling provisions of said act and said rules and regulations.

Among the said wool products sold and distributed by respondents in commerce as aforesaid were suits and other articles of wearing apparel which were misbranded in violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated under such act, in that said wool products when introduced in said commerce did not have on or affixed thereto a stamp, tag, label or other means of identification or a substitute in lieu thereof, as provided by said act, showing (a) the percentage of 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 in lieu thereof a registered number with name of a reseller under the conditions provided in the rules and regulations promulgated under such act, or the name of one or more persons subject to section 3 of the said act with respect to such wool product.

PAR. 8. The aforesaid acts, practices and methods of respondents, 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 and the Wool Products Labeling Act of 1939, the Federal Trade Commission on the 27th day of May 1943, issued and subsequently served its complaint in this proceeding upon respondents, Gabriel H. Gladstone and Newton A. Gladstone, copartners, trading and doing business as Gladstone Bros., and as Aaron Leonard Co., charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said acts. After the issuance of said complaint, the respondents submitted an answer admitting all the material allegations of fact set forth in said complaint and waiving

all intervening procedure and further hearing as to said facts, and agreeing that paragraph 3 of the Commission's complaint may be considered as amended by substituting the word "Valcuna" for the word "Vicuna," the second word in the third line of said paragraph, which answer was duly filed in the office of the Commission. Thereafter this proceeding regularly came on for final hearing before the Commission on the said complaint and answer and the Commission having duly considered the matter 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. Respondents, Gabriel H. Gladstone and Newton A. Gladstone, are copartners, trading and doing business as Gladstone Bros. and as Aaron Leonard Co. Their principal office and place of business are at 110 Fifth Avenue, New York, N. Y.

PAR. 2. Respondents are now, and during all times mentioned herein, have been engaged in designing and cutting fabrics which are manufactured into clothing for men and boys. The remaining manufacturing operations necessary to the completion of the clothing are performed for respondents by others.

Respondents cause and have caused said clothing when sold by them to be transported from their place of business in the State of New York to various purchasers thereof at their respective points of location in various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their aforesaid business respondents distributed clothing which was labeled "Valcuna," and which labels bore a likeness to a vicuna. Such labels constituted a representation that the clothing was made entirely of vicuna wool fabric, when in truth and in fact said clothing was not made entirely of vicuna wool fabric but was made of fabric which contained a substantial amount of fiber other than vicuna wool.

PAR. 4. There is a demand on the part of a substantial portion of the purchasing public for clothing manufactured of vicuna wool.

PAR. 5. Respondents also sold and distributed men's and boys' suits in commerce as aforesaid which were labeled "London Park Clothes—\$40.00—All Wool." In truth and in fact said suits were not made entirely of wool fabric but were made of fabric which contained a substantial amount of fiber other than wool.

PAR. 6. The use by the respondents of the foregoing false, deceptive and misleading representations with respect to their clothing, dissemi-

nated as aforesaid, has had and now has the capacity and tendency to and does mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements, representations and advertisements are true, and has induced a portion of the purchasing public because of such erroneous and mistaken belief to purchase the respondents' said clothing.

PAR. 7. Among the suits and other articles of wearing apparel sold and distributed by respondents as aforesaid since July 15, 1941, are many which are wool products within the intent and meaning of the Wool Products Labeling Act of 1939, in that said suits and other articles of wearing apparel were composed in whole or in part of wool, reprocessed wool or reused wool, as those terms are defined in said act. Said wool products are subject to the labeling provisions of said act and said rules and regulations.

Among the said wool products sold and distributed by respondents in commerce as aforesaid were suits and other articles of wearing apparel which were misbranded in violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated under such act, in that said wool products when introduced in said commerce did not have on or affixed thereto a stamp, tag, label or 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 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 in lieu thereof a registered number with name of a reseller under the conditions provided in the rules and regulations promulgated under such act, or the name of one or more persons subject to section 3 of the said act with respect to such wool product.

CONCLUSION

The aforesaid acts, practices and methods of respondents, as herein found, 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 and the Wool Products Labeling Act of 1939.

Order

37 F. T. C.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondents, in which answer respondents admit all the material allegations of fact set forth in said complaint and state that they waive all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act and the provisions of the Wool Products Labeling Act of 1939:

It is ordered, That the respondents, Gabriel H. Gladstone and Newton A. Gladstone, copartners, trading and doing business as Gladstone Bros., and as Aaron Leonard Co., jointly or severally, or trading under any other name, their representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of articles of clothing in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "Valcuna" to designate, describe, or refer to any garment not composed entirely of vicuna wool; or representing through the use of a pictorial likeness of a vicuna, or in any other manner, directly or indirectly, that any garment containing fibers other than vicuna wool is made entirely of vicuna wool.

2. Representing in any manner, directly or indirectly, that any garment containing fibers other than wool is composed entirely of wool.

It is further ordered, That respondents, Gabriel H. Gladstone and Newton A. Gladstone, copartners, trading as Gladstone Bros., or as Aaron Leonard Co., or trading under any other name, jointly or severally, their representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce, or the sale, transportation, or distribution in commerce, as "commerce" is defined in the aforesaid acts, do forthwith cease and desist from misbranding men's and boys' clothing or other "wool products" as defined in and subject to the Wool Products Labeling Act of 1939, 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 said act, by failing to securely affix to or place on such products a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner:

- (a) The percentage of the total fiber weight of such wool product, exclusive of ornamentation not exceeding 5 percent of said total fiber

645

Order

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 such wool product of any nonfibrous loading, filling, or adulterating matter.

(c) The name of the manufacturer of such wool product; or the manufacturer's registered identification number and the name of a seller of such wool product; or the name of one or more persons introducing such wool product into commerce, or engaged in the sale, transportation, or distribution thereof in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939.

Provided, That the foregoing provisions concerning misbranding shall not be construed to prohibit acts permitted by paragraphs (a) and (b) of section 3 of the Wool Products Labeling Act of 1939: *And provided further*, That nothing contained in this order shall be construed as limiting any applicable provisions of said act or the rules and regulations promulgated thereunder.

It is further ordered, That the 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
**BERNARD ENGINEERING COMPANY, LIONEL BERNARD
AND WILLIAM I. MILLER**

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT 20, 1914

Docket 4979. Complaint, June 16, 1943—Decision, Dec. 11, 1943

Where a corporation, owner of a patented formula for a so-called antifreeze solution for use in automobiles, along with its president and a second individual—president of a corporation subsequently dissolved which had been given the exclusive right for 5 years to manufacture and sell throughout the United States and Canada the antifreeze solution made in accordance with the formula owned by the first named concern, and who, after the dissolution of said corporation, continued to carry on the business through statements in advertising folders and circulars and on labels, directly or by implication—

- (a) Represented falsely that their said "Wonder Solv Anti-Freeze" furnished protection to the cooling systems of automobiles and other combustion-type engines against freezing and other damaging effects from low temperature, that it was safe and dependable for use and had proved itself to be a superior permanent type antifreeze; would prevent rust or other damage to hose connections, radiators, or other rubber and metal parts of the cooling system, and to the finish of automobiles; would not evaporate or clog passages in the cooling system; afforded full and complete protection against corrosion, rust, and electrolytic action in all types of water cooled internal combustion engines, and was not harmless to aluminum, brass, copper, zinc, iron, or any combination of metals, paint, and rubber;

The facts being the product in question, having a magnesium chloride base, was inferior to antifreeze solutions with glycerine or alcoholic bases; was not safe and dependable and was not permanent in that, in time, it evaporated; and use thereof would cause rust, corrosion, clogged passages, and other serious damage to the engine and radiator, would injure ignition wires, hose connections, spark plugs, or any other part of the automobile with which it came in contact; and was not harmless as claimed;

With result of placing in the hands of said second concern and individual, means whereby they were enabled to mislead and deceive the purchasing public, and of misleading and deceiving a substantial portion thereof into the mistaken belief that such statements were true, and of thereby inducing it to purchase substantial quantities of their said product:

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.

Before *Mr. Randolph Preston*, trial examiner.

Mr. Jesse D. Kash for the Commission.

Mr. Frank M. Lario, of Camden, N. J., for respondents.