

Complaint

38 F. T. C.

IN THE MATTER OF

HARRY FISCHER AND JOSEPH FISCHER, TRADING AS
HARRY FISCHER & COMPANY

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914, AND THE WOOL PRODUCTS
LABELING ACT OF 1939, APPROVED OCT. 14, 1940

Docket 5073. Complaint, Nov. 1, 1943—Decision, Jan. 31, 1944

Where two partners engaged in the manufacture and interstate sale and distribution of men's topcoats, overcoats and other articles of clothing from woolen fabrics which were purchased by them from manufacturers in other states and had affixed thereto a stamp, tag, label or other means of identification purporting to show the information required by the Wool Products Labeling Act of 1939;

In connection with certain coats which were made for introduction into commerce, and were wool products within the intent and meaning of said Act in that they were composed in whole or in part of wool, reprocessed wool, or reused wool as defined therein—

Made use of conflicting labels in violation of said Act and the rules and regulations thereunder in that a cardboard tag attached to the left sleeve of the coats bore the words "Made of All Wool," while the cloth label sewed to the inner lining near the collar and bearing a picture of a camel and alpaca read "of Camel Hair and Wool," and thereby misbranded said coats in violation of said Act in that the cloth label did not show the percentage of the total fiber weight of wool, reprocessed wool, reused wool, non-wool fiber and aggregate thereof, including filler or adulterating matter as there required; and proper identification of the manufacturer or seller;

With capacity and tendency to confuse and deceive the purchasing public as to the fiber content of said coats and with effect of so doing, in violation of said Act:

Held, That such acts, practices and methods 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 Harry Fischer and Joseph Fischer, individually and as copartners, trading and doing business as Harry Fischer & Company, hereinafter referred to as respondents, have violated the provisions of 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. The respondents, Harry Fischer and Joseph Fischer, are copartners, trading and doing business as Harry Fischer and Company, and have their principal office and place of business at 315 North 12th Street, Philadelphia, Pa. Respondents are now and for more than one year last past have been engaged in manufacturing and selling men's topcoats and overcoats and other articles of clothing.

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Respondents cause, and for more than one year last past have caused, said coats and other articles of clothing, when sold by them, to be transported from their place of business in the State of Pennsylvania to various purchasers thereof at their respective points of location in various 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 products in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. Respondents purchase the woolen fabrics from which their said coats and other articles of clothing are made from the manufacturers thereof whose places of business are located in States other than the State of Pennsylvania and cause said fabrics to be shipped from said manufacturers' places of business to respondents' factory in Philadelphia, Pa., at which place said fabrics are converted into men's coats and other articles of clothing. Said fabrics have affixed thereto by the manufacturers thereof, or by some person authorized under the provisions of the Wool Products Labeling Act and the rules and regulations promulgated thereunder, a stamp, tag, label or other means of identification purporting to show (a) the percentage of the total fiber weight of the wool product exclusive of ornamentation not exceeding five percentum 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 five percentum 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 the manufacturer's registered identification number and the name of a subsequent seller or reseller of the product 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 the 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 products where said wool products contained a fiber other than wool.

PAR. 3. Among the coats and other articles of clothing manufactured, sold and distributed by respondents in commerce as aforesaid, and also among the coats and other articles of clothing manufactured for introduction in commerce, as commerce is defined in the Wool Products Labeling Act of 1939, 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 such coats 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 and among the coats manufactured for introduction into said commerce are men's coats which bear conflicting labels. Among and typical of the conflicting labels used by respondents as aforesaid are the following:

Manufactured for
(Name of Reseller)
Made of All Wool
Mfg. 1541

2700

40

Nassau

Short

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The above label is a cardboard tag which is attached to the left sleeve of the coats.

A cloth label sewed to the inner lining near the collar of said coats reads as follows:

Burleigh — Special

(Picture of a
camel and an
alpaca)

C A R A V A N

of

Camel Hair and Wool

The use on the same coat of the cardboard label, which states that said coats are composed of all wool, and the cloth label, which states that said coats are composed of camel's hair and wool has the capacity and tendency to confuse and deceive and does confuse and deceive the purchasing public as to the fiber content of said coats and is a violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder.

The aforementioned coats which bear the conflicting labels set out above are misbranded in violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated under such act in that the cloth label does not show (a) the percentage of the total fiber weight of the wool product, exclusive of ornamentation not exceeding five percentum 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 five percentum 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 the manufacturer's registered identification number and the name of a subsequent seller or reseller of the product as provided for in the rules and regulations promulgated under said act, or the name of one or more persons subject to Section 3 of the said act with respect to such wool product; (d) the percentages, in words and figures, plainly legible, by weight of wool contents of said wool product where such wool product contained a fiber other than wool.

PAR. 4. The aforesaid acts, practices and methods of respondents, as herein alleged, are in violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder and 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 1st day of November, 1943, issued and subsequently served its complaint in this proceeding upon respondents, Harry Fischer and Joseph Fischer, individually and as copartners, trading and doing business as Harry Fischer & Company, charging them with the use of unfair and

deceptive acts and practices in commerce in violation of the provisions of said acts and the rules and regulations promulgated under the Wool Products Labeling Act of 1939. Respondents submitted an answer to the aforesaid complaint, admitting all the material allegations of fact set forth in said complaint and waiving all intervening procedure and further hearing as to said facts, 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 respondents' answer thereto, 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. The respondents, Harry Fischer and Joseph Fischer, are copartners, trading and doing business as Harry Fischer & Company, and have their principal office and place of business at 315 North 12th Street, Philadelphia, Pa. Respondents are now and for more than one year last past have been engaged in manufacturing and selling men's topcoats and overcoats and other articles of clothing.

Respondents cause, and for more than one year last past have caused, said coats and other articles of clothing, when sold by them, to be transported from their place of business in the State of Pennsylvania to various purchasers thereof at their respective points of location in various 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 products in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. Respondents purchase the woolen fabrics from which their said coats and other articles of clothing are made from the manufacturers thereof whose places of business are located in States other than the State of Pennsylvania and cause said fabrics to be shipped from said manufacturers' places of business to respondents' factory in Philadelphia, Pa., at which place said fabrics are converted into men's coats and other articles of clothing. Said fabrics have affixed thereto by the manufacturers thereof, or by some person authorized under the provisions of the Wool Products Labeling Act and the rules and regulations promulgated thereunder, a stamp, tag, label or other means of identification purporting to show (a) the percentage of the total fiber weight of the wool product exclusive of ornamentation not exceeding five percentum 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 five percentum 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 the manufacturer's registered identification number and the name of a subsequent seller or reseller of the product 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 the 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 products where said wool products contained a fiber other than wool.

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PAR. 3. Among the coats and other articles of clothing manufactured, sold and distributed by respondents in commerce as aforesaid, and among the coats and other articles of clothing manufactured for introduction into commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939, 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 such products are 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 and among the products manufactured for introduction into said commerce are men's coats which bear conflicting labels. Among and typical of the conflicting labels used by respondents as aforesaid are the following:

	Manufactured for	
	(Name of Reseller)	
	Made of All Wool	
	Mfgr. 1541	
2700	40	Short
	Nassau	

The above label is a cardboard tag which is attached to the left sleeve of the coats.

A cloth label sewed to the inner lining near the collar of said coats reads as follows:

Burleigh — Special
 (Picture of a
 camel and an alpaca)
 C A R A V A N
 of
 Camel Hair and Wool

The use on the same coats of the cardboard label, which states that said coats are composed of all wool, and the cloth label, which states that said coats are composed of camel's hair and wool, has the capacity and tendency to confuse and deceive, and does confuse and deceive, the purchasing public as to the fiber content of said coats and is a violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder.

The aforementioned coats which bear the conflicting labels set out above are misbranded in violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated under such act in that the cloth label does not show (a) the percentage of the total fiber weight of the wool product, exclusive of ornamentation not exceeding five percentum 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 five percentum 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 the manufacturer's registered identification number and the name of a subsequent seller or reseller of the product as provided for in the rules and regulations

promulgated under said act, or the name of one or more persons subject to Section 3 of the said act with respect to such wool product; (d) the percentages, in words and figures, plainly legible, by weight of wool contents of said wool product where such wool product contained a fiber other than wool.

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 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, Harry Fischer and Joseph Fischer, individually and trading as Harry Fischer & Company, or trading under any other name, and 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 coats and other articles of 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 each of 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 product, exclusive of ornamentation not exceeding five percentum 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 five percentum or more, and (5) the aggregate of all other fibers.

(b) The maximum percentage of the total weight of such product of any non-fibrous loading, filling, or adulterating matter.

(c) The name of the manufacturer of such product; or the manufacturer's registered identification number and the name of a seller of such product; or the name of one or more persons introducing such 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, however, That when such product is composed in whole or in part of any of the specialty fibers named in Section 2(b) of the Wool Products Labeling Act of 1939, the name of any specialty fiber present

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may be used in place of the word "wool" on the stamp, tag, label or other means of identification affixed to such product, in identifying the percentage of the product composed of the specialty fiber named; and provided, further, that when the name of a specialty fiber is used, such fiber shall not be described by any other name on said label or any other stamp, tag, label or other means of identification attached to or affixed to such product.

Provided, further, 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.

Complaint

IN THE MATTER OF

JUDSON L. THOMSON MANUFACTURING COMPANY

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 3 OF AN ACT OF CONGRESS APPROVED OCT. 15, 1914

Docket 4111. Complaint, Apr. 25, 1940—Decision, Feb. 9, 1944

Where a corporation which was long engaged in the manufacture and interstate sale and distribution of tubular and bifurcated rivets to the industrial field exclusively, and in the manufacture and lease of automatic rivet-setting machines to manufacturers, in competition with others so engaged, and, but for the restrictive leases below set forth, with concerns engaged in interstate sale and distribution of such rivets suitable for use with said machines; was one of a group of eight manufacturers in the United States engaged in the manufacture and sale of such rivets, and manufacture, sale and lease of such machines—prices of which range from \$150 to \$1,000 and more, with the more popular machines selling for around \$300; and was one of two of said manufacturers, which, as original occupants of the field, inaugurated the practice of making restrictive leases, later adopted by the others;

Leased its said machines for more than forty years, upon the condition that they should be used only for setting rivets made by it, at yearly rentals which ranged from \$15 to \$25 for ordinary types, were not sufficient, without the sale of the rivets, to warrant the leasing,—in connection with which it made no additional charge for servicing, or, with one exception, for part replacements—and were rebated in event of lessee's using, at prices about ten per cent higher than those of corresponding rivets sold to non-lessees, specified number thereof;

With the result that through said excluding condition it precluded other concerns from selling to its lessees, rivets suitable for use in such machines, and excluded from the tubular and bifurcated rivet market numerous potential purchasers of such articles from its competitors, and competition in aforesaid market was restricted and contracted in direct proportion to the extent to which it was successful in so leasing its machines;

Effect of which, materially increased by similar practices of the other seven manufacturers hereinbefore referred to, might be to substantially lessen competition in sale in commerce of aforesaid articles:

Held, That through use of acts and practices described, said corporation had violated and was violating Section 3 of the Clayton Act.

Before *Mr. Edward E. Reardon*, trial examiner.

Mr. Lynn C. Paulson and *Mr. George W. Williams* for the Commission.
Hutchins & Wheeler, of Boston, Mass., for respondent.

COMPLAINT

The Federal Trade Commission having reason to believe that Judson L. Thomson Manufacturing Company, a corporation, hereinafter referred to as respondent, has violated the provisions of Section 3 of the Act of Congress entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, and commonly known as the Clayton Act, hereby issues this its complaint against said respondent and states its charges in respect thereto as follows, to wit: