

Complaint

38 F. T. C.

IN THE MATTER OF

ROCKWELL WOOLEN COMPANY

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF THE WOOL PRODUCTS LABELING ACT OF 1939, APPROVED OCT. 14, 1940,
AND OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914

Docket 5121. Complaint, Jan. 26, 1944—Decision, Mar. 20, 1944

Where a corporation, engaged in the manufacture, sale and distribution in commerce of wool products as defined in the Wool Products Labeling Act of 1939, and subject to the provisions thereof—

Caused said products to be misbranded, within the intent and meaning of said Act and the Rules and Regulations promulgated thereunder, in that it failed to affix to certain yarns, a stamp, tag, label or other means of identification as provided by said Act, showing the percentage of the total fiber weight of wool, reprocessed wool, reused wool, and nonwool fiber, and filler or adulterating matter; and proper identification of the manufacturer or seller or reseller, etc. subject to the provisions of the Act:

Held, That such acts and practices were in violation of said Wool Products Labeling Act of 1939 and Rules and Regulations promulgated thereunder, and constituted unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

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 Rockwell Woolen Company, a corporation, hereinafter referred to as respondent, has 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 respondent, Rockwell Woolen Company, is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Massachusetts, and has its principal office and place of business located at Leominster, Mass.

PAR. 2. Respondent is engaged in the introduction and manufacture for introduction into commerce, and in the sale, transportation and distribution of wool products, as such products are defined in the Wool Products Labeling Act of 1939, in commerce, as "commerce" is defined in said act and in the Federal Trade Commission Act. Many of respondent's said products are composed in whole or in part of wool, reprocessed wool and reused wool, as those terms are defined in the Wool Products Labeling Act of 1939, and such products are subject to the provisions of said act and the rules and regulations promulgated thereunder. Since July 15, 1941, respondent has violated the provisions of said act and said rules and regulations in the introduction and manufacture for introduc-

tion into commerce and in the sale, transportation and distribution of said wool products in said commerce by causing said wool products to be misbranded within the intent and meaning of said act and the rules and regulations promulgated thereunder.

PAR. 3. Among the wool products introduced and manufactured for introduction into commerce and sold, transported and distributed in said commerce as aforesaid, were yarns used by purchasers for the manufacture of sweaters and other garments. Exemplifying respondent's practice of violating said act and the rules and regulations promulgated thereunder is its misbranding of the aforesaid yarns in violation of the provisions of said act and said rules and regulations by failing to affix to said yarns 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 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 nonfibrous loading, filling or adulterating matter; (c) the percentages in words and figures plainly legible by weight of the wool contents of such wool product where said wool product contains a fiber other than wool; (d) the name of the manufacturer of the wool product, or the manufacturer's registered identification number and the name of a 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 said act with respect to such wool product.

PAR. 4. The aforesaid acts, practices and methods of the respondent as alleged were and are in violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder, 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 26th day of January, 1944, issued and subsequently served its complaint in this proceeding upon respondent, Rockwell Woolen Company, a corporation, charging it 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 respondent filed 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. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint and the 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 respondent, Rockwell Woolen Company, is a corporation, organized, existing and doing business under and by virtue of

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the laws of the State of Massachusetts, and has its principal office and place of business located at Leominster, Mass.

PAR. 2. Respondent is engaged in the introduction and manufacture for introduction into commerce, and in the sale, transportation and distribution of wool products, as such products are defined in the Wool Products Labeling Act of 1939, in commerce, as "commerce" is defined in said act and in the Federal Trade Commission Act. Many of respondent's said products are composed in whole or in part of wool, reprocessed wool and reused wool, as those terms are defined in the Wool Products Labeling Act of 1939, and such products are subject to the provisions of said act and the rules and regulations promulgated thereunder. Since July 15, 1941, respondent has violated the provisions of said act and said rules and regulations in the introduction and manufacture for introduction into commerce and in the sale, transportation and distribution of said wool products in said commerce by causing said wool products to be misbranded within the intent and meaning of said act and the rules and regulations promulgated thereunder.

PAR. 3. Among the wool products introduced and manufactured for introduction into commerce and sold, transported and distributed in said commerce as aforesaid, were yarns used by purchasers for the manufacture of sweaters and other garments. Exemplifying respondent's practice of violating said act and the rules and regulations promulgated thereunder is its misbranding of the aforesaid yarns in violation of the provisions of said act and said rules and regulations by failing to affix to said yarns 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 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 nonfibrous loading, filling or adulterating matter; (c) the percentages in words and figures plainly legible by weight of the wool contents of such wool product where said wool product contains a fiber other than wool; (d) the name of the manufacturer of the wool product, or the manufacturer's registered identification number and the name of a 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 said act with respect to such wool product.

CONCLUSION

The aforesaid acts, practices and methods of the respondent as herein found were and are in violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder, and constitute 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 and the answer of respondent,

in which answer respondent admits all the material allegations of fact set forth in said complaint and states that it waives 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 respondent has violated the provisions of the Federal Trade Commission Act and the provisions of the Wool Products Labeling Act of 1939.

It is ordered, That respondent, Rockwell Woolen Company, a corporation, its officers, 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 yarns or other "wool products" as such products are 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 securely to 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 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 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 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.

IN THE MATTER OF

C. F. LUSK TRADING AS C. F. LUSK COMPANY

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

Docket 4911. Complaint, Feb. 15, 1943—Decision, Mar. 27, 1944

Where an individual engaged in interstate sale and distribution, principally to automotive jobbers and dealers, of his "Lusco" or "Lusco Weld" product, for use in repairing cracks and leaks in automobile radiators and motors and other metal devices; in trade journals, catalogs, advertising circulars, pamphlets, labels, etc., directly or by implication—

Represented that use of his product on broken or cracked automobile radiators and motors and on boilers and other mechanical devices resulted in a fusion, union or welding of the broken or cracked parts such as would be accomplished by a welding process, by means of such statement, and particularly use of words "weld," "welding" and "weldium," as "Lusco Cleaning & Welding Compound (containing Weldium) Welds as it Flows . . . Actually Welds Shut Leaks Directly Into Combustion Chamber," "Lusco Cylinder-Boiler Weld a Permanent Repair for Cracked Cylinders," "Weldium—the amazing synthetic metallic ore that puts the 'Weld' in Lusco Weld";

The facts being that while the product in question—a cement or glue—might stop or plug holes or cracks in metal objects, it was incapable of bringing about a fusion, union or consolidation of metal parts such as is accomplished by a welding process; and the word "Weldium" was merely a coined word used by said individual along with the words "weld" and "welding" to further the misleading impression;

With tendency and capacity to mislead and deceive a substantial number of jobbers, dealers, and members of the purchasing public and to cause them to purchase his product as a result of the erroneous belief so engendered:

Held, That such acts and practices as above set forth, were all to the prejudice of the public, and constituted unfair and deceptive acts and practices in commerce.

Before *Mr. Lewis C. Russell*, trial examiner.

Mr. Jesse D. Kash for the Commission.

Mr. Jerome W. Moss, of Cleveland, Ohio, 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 C. F. Lusk, an individual trading as C. F. Lusk Company, hereinafter referred to as respondent, has 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, C. F. Lusk, is an individual, trading and doing business as C. F. Lusk Company with his office and principal place of business located at 6523 Euclid Avenue, Cleveland, Ohio.

PAR. 2. The respondent is now and for more than two years last past has been engaged in the sale and distribution of a product called "Lusco" used to repair cracks and leaks in radiators and water-cooled motors and for other industrial repair purposes. Said product is sold by the respondent—